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KOREAN TAXATION

Ministry of Economy and Finance  
KOREA



## PREFACE

Dear readers:

Due to the Covid-19 and the consequent global economic downturn, the Korean economy in 2020 suffered slowdown, facing further difficulties in tax revenues and greater fiscal demand. To address these economic and fiscal conditions effectively, the 2020 tax revision is focused on supporting recovery from the pandemic as well as promoting economic revitalization and a proactive response to the post-Covid-19 phase.

The highlights of the tax reform are as follows.

First of all, tax support to help overcome the Covid-19 and rejuvenate the economy has been strengthened. Specifically, tax credit schemes for corporate investment have been unified and simplified with the credit carryforwards extended from 5 to 10 years and loss carryforwards from 10 to 15 years. Furthermore, tax deduction for credit card purchases has been raised temporarily and application of the individual consumption tax reduction for electronic vehicles extended for 2 years.

Secondly, tax reform 2020 revised various regimes involving “the establishment of bedrock for inclusiveness and promotion of mutual growth and fairness.” For instance, the threshold for simplified VAT assessment was significantly elevated and job-related tax incentives including the Wage Increase Tax Credit saw their application period extended. Also increased was the Employment Growth Tax Credit for senior citizens hired. On top of that, to enhance tax fairness, the tax code revision has raised the highest personal income tax rate, charging heavier taxation on housing ownership, particularly with a hike in comprehensive real-estate holding tax rates for houses held by individuals or corporations.

Last but not least, the 2020 tax revision improved a number of schemes to “streamline the tax regime and create a tax payer-friendly environment.” For example, terms referring to public interest corporation prescribed in different tax provisions have been unified and, as part of protecting tax payer interests, the tax audit notice is now required to include an entry of covered taxable periods of the investigation. In addition, through the “Rewriting of Tax Code” program,

the tax reform has made the terms in tax laws plain and simple to ensure better understanding and readability for tax payers while reinforcing the hierarchy of the tax statutes.

Korean Taxation 2021 covers the most updated overview of the Korean tax regime in general. I sincerely hope that this edition will serve as a useful reference for readers both at home and abroad to better understand the revised Korean tax system.

A handwritten signature in black ink, appearing to read 'Kim Taejoo', written in a cursive style.

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*Part 1: Introduction*

**Chapter I: Tax System in Korea**

**1. Taxes in Korea**

Taxes in Korea comprise national and local taxes. National taxes are divided into internal taxes, customs duties, and three earmarked taxes; the local taxes include province taxes and city & county taxes as shown below.

National Taxes

Internal Taxes

Income Tax  
Corporation Tax  
Inheritance Tax  
Gift Tax  
Comprehensive real estate holding Tax

Value-added Tax  
Individual Consumption Tax  
Liquor Tax  
Stamp Tax  
Securities Transaction Tax

Customs Duties

Earmarked Taxes

Transportation· Energy· Environment Tax  
Education Tax  
Special Tax for Rural Development

Local Taxes

Province Taxes

Ordinary Taxes

Acquisition Tax  
Registration and License Tax  
Leisure Tax  
Local Consumption Tax

Earmarked Taxes

Community Resource and Facility Tax

## Local Education Tax

### City & County Taxes

#### Ordinary Taxes

Inhabitant Tax

Property Tax

Automobile Tax

Local Income Tax

Tobacco Consumption Tax

The national internal taxes consist of direct and indirect taxes and each consists of five internal taxes. Of these ten taxes, Income Tax, Corporation Tax, and Value Added Tax make up the bulk of Korean tax revenue. There also exist three national earmarked taxes, namely the Transportation·Energy·Environment Tax, Education Tax, and Special Tax for Rural Development; the revenues from these sources go directly to pre-designated government programs.

There are eleven local taxes, and they are divided into province and city & county taxes. At the province level, there are four ordinary taxes and two earmarked taxes. At the city & county level, there are five ordinary taxes. In the six large specially designated cities that are run as autonomous local administrative units (independent of the provinces they appertain to), the tax composition is slightly different from that of the provinces and cities or counties, although the residents are required to pay the same taxes.

A person is either a resident or a non-resident of Korea depending on residence or domicile. A resident is liable to income tax on items of income derived from sources both within and outside Korea. On the other hand, a non-resident is liable to income tax only on items of income derived from sources within Korea.

Under the income tax law, income earned by both residents and non-residents is subject to global and schedular taxation. Under global taxation, business income, wage and salary income, pension income, and other income attributed to a resident are aggregated and taxed progressively. Interest and dividends are subject to tax withholding. Non-residents are similarly taxed on income from Korean sources. The tax rates on individual income range from 6% to 45%. When a company is incorporated in Korea, it is deemed a domestic corporation and is liable to tax from worldwide income whereas a foreign corporation is liable to tax on Korean source income. The corporate income tax rates are 10%, 20%, 22% and 25%. A foreign corporation without a permanent establishment in Korea is subject to withholding tax.

## 2. Tax Laws and Regulations

A Presidential Decree may be set in order to enforce the tax laws. The Minister of Economy and Finance also enacts Ministerial Decrees to enforce the Presidential Decree, to make rulings and authoritative interpretations of the laws, and to enforce the decrees. In addition to the Presidential and Ministerial Decrees, the Commissioner of the National Tax Service may issue administrative orders and rules to ensure the consistent application of the laws. The courts of justice have the final authority in interpreting the tax laws, and the rulings and interpretations by tax authorities do not bind. Laws of national taxes are shown in the table below.

The Constitution also provides for the principle of local autonomy. Under this principle, local governments are given the right to assess and collect local taxes. The Local Tax Law, the Presidential Enforcement Decree on Local Tax Law, and the Ministerial Enforcement Decree on Local Tax Law are enacted under the Constitution.

### Laws of National and Local Taxes

| Classification                        | Law                                   | Presidential Decree   | Ministerial Decree  |
|---------------------------------------|---------------------------------------|---|---|
| Income Tax                            | Income Tax Law                        | Enforcement Decree on Income Tax Law                            | Enforcement Decree on Income Tax Law                            |
| Corporation Tax                       | Corporation Tax Law                   | Enforcement Decree on Corporation Tax Law                       | Enforcement Decree on Corporation Tax Law                       |
| Inheritance Tax and Gift Tax          | Inheritance Tax and Gift Tax Law      | Enforcement Decree on Inheritance Tax and Gift Tax Law          | Enforcement Decree on Inheritance Tax and Gift Tax Law          |
| Comprehensive Real Estate holding tax | Comprehensive Real Estate holding tax | Enforcement Decree on Comprehensive Real Estate Holding Tax Law | Enforcement Decree on Comprehensive Real Estate Holding Tax Law |

|                 |                     |   |   |
|-----------------|---------------------|---|---|
| Value-Added Tax | Value-Added Tax Law | Enforcement Decree on Value-Added Tax Law | Enforcement Decree on Value-Added Tax Law |
|-----------------|---------------------|---|---|

| <b>Classification</b>                        | <b>Law</b>                                  | <b>Presidential Decree</b>  | <b>Ministerial Decree</b>   |
|--|---|---|---|
| Individual consumption tax                   | Individual consumption tax Law              | Enforcement Decree on Individual consumption tax Law              | Enforcement Decree on Individual consumption tax Law              |
| Liquor Tax                                   | Liquor Tax Law                              | Enforcement Decree on Liquor Tax Law                              | Enforcement Decree on Liquor Tax Law                              |
| Stamp Tax                                    | Stamp Tax Law                               | Enforcement Decree on Stamp Tax Law                               | Enforcement Decree on Stamp Tax Law                               |
| Securities Transaction Tax                   | Securities Transaction Tax Law              | Enforcement Decree on Securities Transaction Tax Law              | Enforcement Decree on Securities Transaction Tax Law              |
| Transportation ·Energy· Environment Tax      | Transportation ·Energy· Environment Tax Law | Enforcement Decree on Transportation ·Energy· Environment Tax Law | Enforcement Decree on Transportation ·Energy· Environment Tax Law |
| Education Tax                                | Education Tax Law                           | Enforcement Decree on Education Tax Law                           | –   |
| Special Tax for Rural Development            | Special Tax Law for Rural Development       | Enforcement Decree on Special Tax Law for Rural Development       | –   |
| Basic Rules and Tax Appeal on National Taxes | Framework Law on National Taxes             | Enforcement Decree on Framework Law on National Taxes             | Enforcement Decree on Framework Law on National Taxes             |
| National Tax Collection                      | National Tax Collection Law                 | Enforcement Decree on National Tax Collection Law                 | Enforcement Decree on National Tax Collection Law                 |
| National Tax Evasion Punishment              | Punishment of Tax Evaders Law               | –   | –   |

|   |   |
|---|---|
| Procedure for the Punishment of Tax Evaders Law | Enforcement Decree on Procedure for the Punishment of Tax Evaders Law |
|---|---|

| <b>Classification</b>   | <b>Law</b>  | <b>Presidential Decree</b>  | <b>Ministerial Decree</b>   |
|---|---|---|---|
| National Tax Exemption and Reduction                            | Special Tax Treatment Control Law                         | Enforcement Decree on Special Tax Treatment Control Law                         | Enforcement Decree on Special Tax Treatment Control Law                         |
| Coordination of International Tax Affairs                       | The Law for the Coordination of International Tax Affairs | Enforcement Decree on the Law for the Coordination of International Tax Affairs | Enforcement Decree on the Law for the Coordination of International Tax Affairs |
| Customs Duties  | Customs Law   | Enforcement Decree on Customs Law   | Enforcement Decree on Customs Law   |
| Drawback of Customs Duties                                      | Special Law for Drawback of Customs Duties                | Enforcement Decree on Special Law for Drawback of customs Duties                | Enforcement Decree on Special Law for Drawback of customs Duties                |
| Taxation Requirement, Assessment, and Collection of Local Taxes | Local Tax Law   | Enforcement Decree on Local Tax Law   | Enforcement Decree on Local Tax Law   |
| Basic Rules on Local Taxes                                      | Framework Law on Local Taxes                              | Enforcement Decree on Framework Law on National Taxes                           | Enforcement Decree on Framework Law on National Taxes                           |
| Local Tax Collection  | Local Tax Collection Law                                  | Enforcement Decree on Local Tax Collection Law                                  | Enforcement Decree on Local Tax Collection Law                                  |
| Local Tax Exemption and Reduction                               | Special Local Tax Treatment Control Law                   | Enforcement Decree on Special Local Tax Treatment Control Law                   | Enforcement Decree on Special Local Tax Treatment Control Law                   |

### **3. Government Authorities Concerned**

#### **a. Office of Tax and Customs, Ministry of Economy and Finance**

The Office of Tax & Customs plans and coordinates overall national tax and customs policies. It is headed by the Deputy Minister for Tax and Customs, assisted by four Directors-Generals and fifteen Division Directors (eleven for internal taxes, four for customs and duties). The divisions regarding internal taxes include Tax Policy Division, Tax Analysis Division, Special Tax Treatment Division, Tax Statutes Interpretation Division, Income Tax Division, Corporation Tax Division, Financial Tax Division, International Tax Division, Property Tax Division, Value-Added Tax Division, and Environment and Energy Tax Division. The functions of each division except four divisions for customs and duties are described as below:

(1) Tax Policy Division

- Plans tax policy in general

(2) Tax Analysis Division

- Develops and implements mid-and long-term tax reform measures
- Prepares a revenue budget
- Estimates tax revenue and analyzes actual tax revenue

(3) Special Tax Treatment Division

- Plans, drafts, and interprets laws, including Special Tax Treatment Control Law, Education Tax Law (Education Tax for Finance and Insurance Businessmen not included), and Special Tax Law for Rural Development
- Estimates and analyzes tax exemptions and reductions

(4) Tax Statutes Interpretation Division

- Researches and interprets laws concerning internal taxes in general
- Plans, drafts and interprets laws concerning the imposition and collection of internal taxes, including the Framework Act on National Taxes, the National

Tax Collection Act, the Punishment of Tax Evaders Act, and the Procedure for the Punishment of Tax Evaders Act

(5) Income Tax Division

- Plans, drafts, and interprets laws concerning individual income tax and other related internal taxes excluding matters dealt by the Property Tax Division (capital gains tax of stocks, investment shares and other financial assets not included), the International Tax Division, and the Financial Tax Division

(6) Corporation Tax Division

- Plans, drafts, and interprets laws concerning corporation tax and other related internal taxes excluding matters dealt by the International Tax Division

(7) Financial Tax Division

- Plans, drafts, and interprets laws concerning comprehensive financial income tax including interests and dividends, fund income tax, capital gains tax on derivatives
- Plans, drafts, and interprets the Education Tax Law concerning finance and insurance businessmen and securities transaction tax

(8) International Tax Division

- Researches, plans, drafts, and interprets laws concerning taxation on income of non-residents and foreign corporations

(9) Property Tax Division

- Plans, drafts, and interprets laws and provisions of the Income Tax Law concerning capital gains tax and those of the Corporation Tax Law concerning additional tax on capital gains (excluding capital gains tax of stocks, investment shares and other financial assets)
- Plans, drafts, and interprets laws concerning inheritance tax, gift tax and comprehensive real estate holding tax

(10) Value-Added Tax Division

- Plans, drafts, and interprets laws concerning value added tax and stamp tax

(11) Environment and Energy Tax Division

- Plans, drafts, and interprets laws concerning individual consumption tax, liquor tax, and transportation·energy·environment tax

**b. Tax Tribunal**

The Tax Tribunal, previously called the National Tax Tribunal, was established as an independent organization under the former Ministry of Finance on April 1, 1975 and is now composed of a General Affairs Division, a Supreme Judge, 6 Permanent judges, 30 non-permanent judges, and 15 examiners. It is responsible for examining and judging tax appellate cases.

**c. National Tax Service**

The National Tax Service(NTS) was established as an external organization for the Ministry of Finance on March 3, 1966, taking over the Taxation Bureau of the Ministry of Finance. It is mainly in charge of the assessment and collection of internal taxes. Headed by the Commissioner, it is responsible for tax administration by directing, supervising, and controlling regional and district tax offices.

The NTS consists of 10 bureaus, namely Planning & Coordination Bureau, Information System Bureau, Taxpayer Advocacy Bureau, International Taxation Bureau, Collection-Legal Affairs & PR Bureau, Individual Taxation Bureau, Corporate Taxation Bureau, Property Taxation Bureau, Investigation Bureau, and Earned Income Tax Bureau with three affiliated organizations i.e. National Tax Officials Training Institute, NTS Liquor License Support Center and National Tax Consultation Center. It also has 7 regional tax offices in Seoul, Busan, Daegu, Daejeon, Gwangju, Suwon and Incheon as well as 130 district tax offices across the country.



## **4. A Brief History of Taxation in Korea**

### **a. The Infant period of a modern Korean tax system (1948-1953)**

A modern tax system was introduced after the formation of the Government of the Republic of Korea in 1948, after which the Tax Law Committee was established to supplement modern tax laws.

Eight fundamental tax laws such as the Income Tax Law, the Corporation Tax Law, and the Liquor Tax Law were enacted in 1948, and later 9 more laws including the Inheritance Tax Law, the Travel Tax Law, and the Commodity Tax Law were also added.

The Korean War (1950-1953) necessitated a change in the tax system. The Land Tax Law and the Temporary Tax Revenue Expansion Law were introduced and several existing tax laws (e.g. Income Tax Law) were revised immediately after the Korean War broke out in order to provide for the additional revenue required to finance the war. In 1951, the Special Measure for Taxation and Temporary Land Income Tax Law was also enacted.

Upon signing of the armistice in 1953, the government began to modify the tax system to better accommodate the economic needs during the period of peace, which led to the Report and Recommendation for the Korean Tax System by H.P. Wald, published on Aug. 25, 1953.

### **b. The period of postwar reconstruction (1954-1961)**

In April, 1954, the Special Measure for Taxation and the Temporary Tax Revenue Expansion Law were abolished with significant influence from Wald's Report on reforms of the tax system. The Textile Tax was absorbed into the Commodity Tax and the License Tax was transferred from the central government to the local authorities. The income tax system was divided into schedular taxes with flat rates and global taxes with progressive rates. As for direct taxes, the short-term payment system only based on the actual business results was converted into a long-term payment system based both on prior estimation and the actual results.

In 1956, the rates on direct taxes were reduced and indirect tax rates were raised in order to alleviate the disincentive effect of high direct taxes on capital accumulation. The Asset Revaluation Tax, Foreign Exchange Special Tax, and Education Tax were introduced in 1958; the first two were abolished later. The Liberal Party initiated a

tax reform for the Three-Year Economic Development Plan in 1959 upon the recommendation of a tax consultant group headed by Dr. Hall. As a result, most tax rates were reduced and the tax administration was streamlined. Tax exemptions and deductions designed to promote exports and capital accumulation were increased substantially.

In order to collect delinquent taxes that were accumulating, the government enacted the Temporary Measure for Tax Collection and the Special Measure for Tax Evasion Punishment in 1961.

### **c. The period of economic development (1962-1967)**

At the end of 1961, the government implemented a general tax reform to support the First Five-Year Economic Development Plan. The basic guidelines of this reform were to simplify tax administration, to promote efficient revenue collection as well as private savings and investment, and to establish an equitable tax system.

In December 1961, improvements were made in the following: Income Tax Law, Corporation Tax Law, Business Tax Law, Registration Tax Law, Travel Tax Law, Liquor Tax Law, Petroleum Products Tax Law, Admission Tax Law, Stamp Tax Law, Commodity Tax Law, National Tax Collection Law, Punishment of Tax Evaders Law, and Procedure for the Punishment of Tax Evaders Law. In the following year, the Adjustment Law for National and Local Tax and the National Tax Appellate Application Law were introduced. This reform resulted in a large increase in revenues, enabling the government to provide more public goods and services.

In 1967, twelve of the nineteen existing tax laws were modified extensively and the Real Estate Speculation Control Tax Law was implemented. For corporations with outstanding shares, the tax rate was reduced with an objective of mobilizing domestic capital. Tax exemption applied to dividends and interest income from bank deposits, but the rate on interest income from private lending was increased. To restrict consumption levels, the Liquor Tax was modified to an ad valorem tax and the number of items subject to Commodity Tax was increased. A Special Real Estate Speculation Control Tax was introduced to discourage unproductive use of private capital. The tax burden on high-income earners (those with an annual income of more than 5 million won) was increased with the adoption of a global tax system with progressive rates.

#### **d. The period of sustained economic growth (1968-1973)**

In 1968, as a step toward a self-assessment system, field auditing of corporations with outstanding shares was abolished, tax penalties were raised, and tax credits for voluntary returns and payments were increased. The prompt refund of overpaid national taxes, supplementation of the tax deferral system, and improvement in the tax appeal system strengthened the rights of the taxpayers.

In 1969, six tax laws including the Corporation Tax Law were revised in order to strengthen the practice of voluntary submission of returns and payments and to establish the principle of assessment based only on objective evidence.

In 1972, the Emergency Decree on Economic Stabilization and Growth (the so-called “August 3 Special Measure”) was introduced, which required business enterprises to report all of their debts and to repay them over a five-year period after a grace period of three years. In addition, a special tax credit equivalent to 10% of the investment amount was provided for new investments until December 31, 1974.

#### **e. The period of economic downturn and growth (1974-1979)**

Korea achieved rapid economic growth during the period of the First and Second Five-Year Economic Development Plans. However, with its heavy dependence on international trade and imports of energy and other raw materials, the economy was inevitably affected by the volatile external economic developments of the 1970s. The price increases in 1973 and 1974 of raw materials, particularly petroleum, and related effects on the economies of industrialized countries led to a significant economic downturn. Although this was rapidly overcome, the global inflation that prevailed during the 1970s had an adverse impact in Korea. Throughout this period, fiscal measures were often undertaken for the specific purpose of counterbalancing the difficulties created by the external developments. In particular, a number of temporary fiscal measures (to stay in effect for up to one year) were adopted in the “Presidential Emergency Measure for Stabilization of National Life” in January of 1974.

In December 1974, the government undertook comprehensive reform measures of the tax system primarily to improve income distribution. The earlier scheduler and global income tax system were replaced by a full-scale global income tax system. To reduce the tax burden on low-income earners, generous personal exemptions were also allowed. A new rate structure reduced the tax burden on low-income earners, but the burden increased for those in high-income brackets. A new capital gains tax was also introduced to replace the Real Estate Speculation Control Tax that had been

in effect since 1968. In addition, the upward adjustment of taxable income classes and a downward adjustment of the rates applied to non-profit corporations rationalized the tax structure.

In July 1975, the Defense Tax Law (which was originally planned to stay in effect for 5 years until 1980, but extended twice until it was finally abolished in December 31, 1990) was enacted to secure adequate funding for national defense. Under this law, most taxpayers of internal direct and indirect taxes, customs duties, and local taxes, as well as advertising sponsors were subject to the defense tax ranging from 0.2% to 30% based on the relevant tax amounts, import prices, telephone charges, or advertisement rates.

In December 1976, the Value Added Tax and the Individual Consumption Tax were introduced under a large-scale tax reform. The traditional indirect tax system including a cascade type business tax was replaced by a system mainly consisting of a consumption-type VAT and a supplementary individual consumption tax. This was devised primarily to simplify tax administration and to promote exports and capital investment. A single, flexible rate of 13% was applied to all items subject to the VAT. The 1976 amendments to the internal tax laws generally went into effect in January of 1977, except for the Value Added Tax Law and the Individual Consumption Tax Law, both of which went into effect on July 1, 1977.

Eighteen new tax laws were also enacted or amended under the reform, which aimed at stabilizing the public livelihood, meeting the fiscal requirements for the “4<sup>th</sup> Economic Development Plan,” and further modernizing the tax system. Entertainment and Food Tax, previously a local tax item, was incorporated into the national tax system. The registration tax, formerly a national tax, was converted into a local tax starting January 1, 1977.

In the 1977 and 1978 tax reforms, tax burden for wage and salary earners and the middle income class was reduced and supplementary measures to make up for the deficiencies in the VAT and the Individual Consumption Tax were taken.

In the tax reform of 1979, the basic objectives were the improvement in the structure of income tax and inheritance tax rates, the expansion of revenue sources for national defense, and the provision of a number of incentives for investment in the local equity market.

#### **f. The period of recession, recovery, stabilization and liberalization (1980-1989)**

During this period, in order to encourage technology development, investment credit, additional depreciation, and reserves for technological development were permitted for assets related to new technology. The Enforcement Decree and Regulation of the VAT Law were amended to widen the scope of zero-rated VAT and VAT exemptions,

as well as to simplify the assessment procedures. The Tax Exemption and Reduction Control Law was revised to eliminate the obstacles caused by the tax system for structural adjustment of the national economy. Furthermore, tax incentives were provided for newly established small and medium-sized enterprises (SMEs), which included the income or corporation tax exemption for 4 years with 50% tax reduction for the subsequent 2 years for SMEs newly established in an agricultural or fishing district or those related to technology-intensive business. Meanwhile, when a resident or a domestic corporation receives income from foreign sources, the taxpayer is allowed to treat the total amount of foreign taxes paid as losses when calculating the income amount for the respective business year, or to deduct the paid foreign taxes from income tax or corporation tax. The Excessive Land Holding Tax was also enacted as a local tax on December 31, 1986 (effective from January 1, 1988).

#### **g. The period of 1990-1997**

The major contents of the tax reforms from 1989 to 1992 were as follows. First, the burden of wage and salary earners was reduced with increased deductions for wage and salary income and upwardly adjusted tax credit limits. Second, to enhance tax equality, tax rates on financial assets and on inheritances and gifts were raised. Third, the individual and corporate income tax structures were simplified with rates being lowered and an alternative minimum tax system was also introduced. Fourth, while the Defense Tax was repealed as of January 1991, the Education Tax was permanently set and a system was introduced to transfer national tax revenue to local governments for the purpose of supporting the local economy, which went into effect in early 1991.

In 1993, the difference between recognizing profits and losses in both business and tax accounting was adjusted and the tax rates of the corporate tax, individual tax, and inheritance and gift tax were lowered. In addition, a taxation deferral system in the Tax Exemption and Reduction Control Law and a marginal tax credit system on VAT were introduced.

In 1994, the income tax system was strengthened by incorporating interest and dividend income into the global income tax system (this has been applied since the beginning of 1996). Also, the self-assessment system for individual income taxes was introduced and went into effect on income reported in 1996. Corporate tax rates were reduced to improve the international competitiveness of domestic industries:

| <b>Taxable year</b> | <b>Tax rate (private corporations)</b>   |
|---------------------|--|
| 1994                | Income ≤ 100 million won: 18% (19.35%)<br>Income > 100 million won: 32% (34.40%) |
| 1995                | Income ≤ 100 million won: 18% (19.35%)<br>Income > 100 million won: 30% (31.50%) |

\* Figures in parentheses include the inhabitant tax.

\*An additional tax of 15% is imposed on the accumulated excess earnings of unlisted large-scale corporations.

In 1995, individual income tax brackets were adjusted and simplified to alleviate the income tax burden, and the corporation tax rate was decreased by 2%. Foreign tax credits on dividends from foreign subsidiaries were permitted on the condition that the tax treaty for the contracting states provided for indirect tax credits. The proposal for the legislation of the Law for the Coordination of International Tax Affairs that covered transfer pricing rules, thin capitalization, anti-tax havens, mutual agreement procedures, and mutual assistance in tax matters was submitted to the National Assembly.

In 1996 and 1997, tax reliefs were granted for technology and human resource development of SMEs, and the collection system of customs duties was converted from pre-payment and post-compensation to post-payment based upon exact calculation. “Long-Term Household Savings” and “Employee Savings through Stock” were created to promote savings and reduce the limit of entertainment expenses to curb conspicuous consumption.

#### **h. The period of financial crisis (1998-1999)**

The economic crisis of Korea in late 1997 has forced the government to initiate a series of comprehensive economic reform measures to facilitate the restructuring process, to stimulate investment and consumption, and to broaden the tax base and tax revenue. In tax reforms carried out in 1998 and 1999, i) tax exemptions or reductions for asset transactions for the purpose of corporate and financial restructuring (e.g. transaction-related taxes such as Capital Gains Tax, Acquisition Tax, and Registration Tax) were provided, ii) tax exemptions on stock options elected by employees of venture capital companies were granted, iii) individual consumption tax, automobile tax, and capital gains tax were reduced iv) the VAT exemptions on services supplied by professional service providers were abolished, v) VAT on cigarettes was imposed on top of the existing local tax, and the excise tax on petroleum was raised three times in 1998, and vi) a 20% withholding tax was imposed on interest income as of January 1, 1998 (the withholding rate increased to 22% beginning October 1, 1998).

### **i. The period of 2000~2010**

In 2000, tax reform focused on strengthening the support for the middle and working class and on enhancing tax equality within the framework of overall economic policy of restructuring; i) pension contribution was allowed to be deductible from the taxable income; ii) the scope of credits for medical expense and earned income was expanded and iii) taxation system for energy was modified to be in line with the level of international standard. Meanwhile, a total of 16 types of local small and medium-sized enterprises (SMEs) including construction, retail and wholesale industries were given income tax and corporate tax cuts by 30%.

The tax reform in 2001 focused on base-broadening via reducing tax exemptions and on building a competitive tax system through providing tax cuts and taking business-friendly tax measures; i) global income tax rates were cut by 10% (10%~40% → 9%~36%), ii) corporation tax rates of 16% and 28% were lowered by 1 percentage point each to 15% and 27%, respectively, iii) the higher corporate income tax on profits accumulated by certain corporations in excess of a level as specified in tax laws was abolished, and iv) tax regimes regarded as stumbling blocks to corporate restructuring were lifted.

In 2002, tax reform centered on supporting the middle and working class, stimulating local economies and boosting competitiveness of corporate sector. The type of industries entitled to SMEs special tax exemptions was expanded by nine to 27 and the type of facilities eligible for tax exemption for investment into productivity boosting facilities was expanded to include supply chain management (SMC) and customer relation management (CRM). Also, in an attempt to combat these transactional financial crimes, Korea's 2002 tax reform allowed the exchange of certain financial information on non-resident and foreign corporation with the foreign tax authorities on a reciprocal basis.

In 2003, in order to stimulate the economy and increase the mid- to long-term growth potential, corporate tax rates were lowered to relieve corporation tax burden and tax incentives toward SMEs were expanded to boost SMEs' entrepreneurship. Meanwhile, to discourage speculative real estate transactions, capital gains tax on property was raised. On the international front, tax reforms in 2003 were composed of allowing an exchange of information on financial transaction with other countries, subjecting all international transactions under transfer pricing rules and finally revising rules on thin capitalization and controlled foreign corporations (CFC rules).

In 2004, comprehensive real estate holding tax as a national tax was introduced to stabilize real estate markets. Along with this, various tax incentives to support creating jobs are main characteristic of the 2004 tax reform. Meanwhile, to enhance the country's competitiveness through inducement of foreign investment, a wide range of foreign investment incentives is provided via the 2004 tax reform. With regard to the taxation of foreign corporations and international transactions, the criteria for comparables used to determine arm's length prices have been eased. On top of these changes, various changes including modified criteria to evaluate a tax haven have been made to complement previous tax laws.

In 2005, tax incentives for corporate reorganization were reinforced; retirement pension contributions were made deductible to promote the use of the retirement pension plan; VAT rates applicable to the small-sized self-employed were reduced by 5% for the retailing business; capital gains tax was imposed based on the price at which the transaction of real estate is made instead of government-evaluated price (effective across-the-board from 2007); comprehensive real estate holding taxation was strengthened by imposing tax with the basis on the sum of houses or lands held by a single household (previously, the comprehensive real estate holding tax was imposed on the sum of houses or lands owned by a single person); the threshold for the tax imposition increased to 600 million won and 300 million won for residential house and land, respectively.

Tax reforms conducted in 2006 aimed at achieving two main goals of supporting the sustainable economic development and enhancing competitiveness of tax regimes; i) special provisions to grant favorable holding tax treatment to land for business use by the service industry have been newly established; ii) the scope of entertainment expense has been adjusted in favor of companies; iii) the criteria used for determining applicability of the rule of denial of unfair transactions were improved in a way that promotes business activities of companies; iv) the earned income tax credit (EITC) aimed at financially supporting the working poor and encouraging people to work was introduced; v) the amount of standard deduction granted to business owners meeting certain requirements such as registering as merchant of credit cards, etc. was raised from 600,000 won to 1 million won; vi) business owners doing transactions directly with consumers and having annual income of 24 million won or more have been required to register as issuer of cash receipt; vii) out of 55 preferential tax benefits due to expire in 2006, 32 benefits have been extended while the remainder was abolished or scaled back; viii) the proportion of deductible dividend income received by a holding company from its subsidiary will be increased in a phased manner from 2007 so that corporate transparency can be further enhanced and companies can be encouraged to change their corporate structure to a holding company.



In 2007, for the purpose of expanding support for low- and middle-income families and the socially disadvantaged, tax base brackets of global income were adjusted upward as shown in the table below:

| Before revision              |          | After revision               |          |
|------------------------------|----------|------------------------------|----------|
| Tax base                     | Tax rate | Tax base                     | Tax rate |
| Nor more than 10 million won | 8%       | Not more than 12 million won | 8%       |
| 10 - 40 million won          | 17%      | 12 - 46 million won          | 17%      |
| 40 - 80 million won or less  | 26%      | 46 - 88 million won          | 26%      |
| Over 80 million won          | 35%      | Over 88 million won          | 35%      |

Also, medical and educational costs are deductible for self-employed businessmen, who have paid taxes faithfully. The deduction is allowed sometime between 2008 and 2009 in the form of two-year sunset clause. The deduction has been expanded gradually depending on its performance. With a view to developing growth engines for the future, requirements for tax deduction applied to start-up ventures were relieved (e.g. the period of confirming a SME as a venture company was extended to three years since its establishment) and the sunset clause for bio-diesel tax deduction was extended to December 31, 2010 to support alternative energy development. To broaden tax bases by improving transparency in revenue sources, threshold for issuing cash receipt was eliminated (the threshold was 5,000 won, but was abolished to improve transparency in small payment in cash). Meanwhile, taxpayers have been allowed to pay national taxes using credit cards up to 2 million won or less along with the credit card payment fee (around 1% of transaction) so that they can pay taxes more easily.

In 2008, the purpose of tax reform was to set a low tax rate and rational taxation system so as to facilitate job creation and secure new growth engines. To be more specific, income tax rate was cut by 2%p in each tax bracket, and the personal deduction amount per person was increased to 1.5 million from 1 million won, and tax refunds of up to 240,000 won per year were provided to workers and the self-employed. Also, corporate tax rate was reduced and tax brackets were adjusted upward as below:

①Tax base of 200 million or less: 13%→11% for 2008 and 2009→10% for 2010 and thereafter

②Tax base of more than 200 million: 25%→22% for 2009and thereafter

In the meantime, the ratio of applying tax base with regard to house and land of general aggregation remains the same at 80% in the previous year, and ceiling of Comprehensive Real Estate Holding Tax (CREHT) liability was adjusted downward from 300% to 150% compared to the previous year to make CREHT more reasonable.

In 2009, to support the low and middle income households, self-employed small business owners who closed their businesses will be exempted from paying delinquent taxes of up to 5 million won for income tax and VAT amount due treated as written off in the case where they start new businesses or get new jobs until the end of 2010. Also, 40% of the monthly rental payments for small houses will be deducted from the earned income, and annual contributions to the Comprehensive Savings Deposits for Housing Subscription will be deducted from the earned income at a rate of 40%.With a view to securing the future growth engines, the R&D expenses for new growth engine industries and source technologies will be eligible for tax credits and individual consumption tax of 5% will be imposed on high energy consuming home appliances (e.g. air conditioner, refrigerator, etc.). Also, tax exemption on both dividend and interest income will be newly provided in regard to funds, term-deposits and bonds that invest more than 60% in government-certified green technologies and projects. In order to ensure fiscal soundness, penalties will be imposed on high-income earners for not issuing cash receipt, and high-profile and frequent tax evaders will be under more severe punishment. In addition, the statute of limitation for prosecution of high-profile tax crimes by corporations will be extended to 10 years from 5 years.

In 2010, with an aim to support job creation, tax incentives to investment have been given on the basis of the number of people hired rather than on the basis of the amount of money invested. Ceilings on tax support for regional special districts and foreign investment companies were set at around 50% ~ 70% of the investment amount (if those districts and companies increase employment, the ceilings increase up to 20% additionally). Secondly, in order to support the low & middle income class, withholding tax rate for day laborers was lowered from 8% to 6% to increase their real income and a new tax deduction system (7%) for contributions to the Mutual Support Guarantee Fund was created to encourage mutual support between large enterprises and SMEs. For the purpose of supporting sustainable growth, investment tax deductions for R&D in the fields of new growth engines and fundamental technologies (e.g. LED applications, biopharmaceuticals, etc.) were expanded to a level much greater than general R&D investment. Thirdly, in order to improve fiscal situations, individual consumption tax exemption for luxurious restaurants was abolished and VAT was newly adopted for aesthetic plastic surgeries, veterinarian treatment, and private educational institutions for adults.

## **j. The period of 2011~2014**

Tax reforms in 2011 aimed at creating jobs, improving economic conditions felt by the public through supporting low and middle income families, and rationalizing the tax system.

Firstly, to boost job growth and secure new growth engines, tax measures have been taken to induce employment and tax benefits for R&D and service sectors have been expanded. Temporary Investment Tax Credit system has been replaced by investment tax credit which is linked with job-creation (i.e. tax credit being granted in proportion to the number of people newly hired).

Secondly, to support the livelihood of the low and middle income class, the Earned Income Tax Credit (EITC) has been largely expanded and measures have been taken to stabilize housing and consumer prices. Additionally, the eligibility for the EITC has been eased to cover households with no dependent children, with the limit of EITC to be paid adjusted upward. Also, tax incentives for the credit and debit card charges made in traditional local market have been expanded.

Thirdly, with a view to ensuring fairer taxation and fiscal soundness, gift tax has been levied on business practice granting all the profitable contracts to the affiliates, and the scope of disclosure of large delinquent taxpayers has been broadened. Also, tax has been imposed on interest generated from domestically issued foreign currency denominated bond as well as financial instrument linking interest and dividend generating products with derivatives. For the purpose of rationalizing the tax system, preliminary VAT return filing has been abolished to ease the burden on individual business owners and underlying tax credit has become fully available, regardless of the existence of the tax treaty specifically providing for the benefit therein.

The 2012 tax reform was carried out under the banner of “robust economy, healthy fiscal conditions, and stable future” with a focus on securing growth engines necessary for sustainable development, creating more jobs, stabilizing the livelihood of low and middle income families, and boosting domestic consumption.

Firstly, with a view to strengthening employment and securing growth engines, the tax credit linked with job creation was reshaped in a way to enhance job creation effect, and the tax benefits have been increased for service industry largely effective in creating employment. Support for green growth was also beefed up in the form of relaxed eligibility for tax credit in respect of investment in environmental

preservation & energy saving facilities. Additionally, criteria were eased for corporations to be entitled to deduction available to family business succession for inheritance tax purposes, and the tax credit rate for R&D expenses was set in favor of High Potential Enterprises.

Secondly, for the purpose of invigorating domestic consumption and stabilizing the livelihood of middle and working classes, home appliances with high energy efficiency were exempted from individual consumption tax and the rule to impose heavy taxes on real estate transfers for those owning more than two houses and land for non-business purposes was suspended for another one year. In addition, the non-taxable property accumulation savings was introduced to lend a hand to workers in their accumulation of assets, and the deduction for long-term fund was newly established for income tax purposes. Also, the EITC was improved in a way to benefit single-senior households and those left outside the Basic Livelihood Security System, with income deduction for lone parents being in place.

Thirdly, in order to enhance fiscal soundness, a monitoring system was established to check whether public service corporations entitled to non-taxation of inheritance and gift tax in respect of donations they receive keep satisfying certain conditions. Also, the reporting system on foreign financial accounts was reformed, the ceiling on bounty for reporting tax evasion was raised, and the income deduction for long-term savings for house purchase was abolished.

Lastly, to upgrade the tax regime in a way that preemptively responds to increasing demand for fiscal spending and such changes as falling birthrates and aging population, the threshold amount for financial income to be subject to global taxation was lowered, while the scope of majority shareholders subject to income tax in respect of gains from stock transfers was expanded. Also, tax began to be levied on the high-value insurance products to ensure tax equality among varied types of financial instruments, and tax regime on pension and retirement income was dramatically reformed as a vital step towards preparation for the era of centenarians.

The 2013 tax reform was carried out under the vision of “competitive, fair, and principle-based tax system” with the basic directions including supporting national policy agenda, securing citizen-oriented tax system, and achieving fairer taxation.

Firstly, in an effort to support national policy agenda, measures have been taken to reinforce growth engines and support SMEs to lay a solid foundation of the creative economy and to achieve the employment-to-population ratio of 70%. For instance, R&D tax incentives for promising service sectors have been expanded and tax credit in respect of R&D expenses has been available to R&D businesses. In a bid to support SMEs, burden of gift tax has been mitigated with regard to profits from transactions between a related party to a parent company and a subsidiary, while

those inheriting family businesses have become entitled to deduction for inheritance tax purposes. To induce further investment into start-ups, tax benefits for angel investors have been expanded, and tax credits have been given to M&A for technology innovation while tax incentives for KONEX market have been introduced, which will in turn help lay the groundwork for creative economy. Furthermore, tax credits for investment associated with job creation have been expanded in relation to part-time workers, and tax benefits have increased to support SMEs hiring more employees.

Secondly, with a view to ensuring the tax system centered on citizens, Earned Income Tax Credit (EITC) has been expanded and Child Tax Credit (CTC) has been introduced, while tax measures to support low-to-middle income families and enhance taxpayers' convenience have been taken. To be more specific, the eligibility for EITC in terms of property and housing has been relaxed while the scope of single-person household eligible for EITC has been broadened, thereby increasing the number of people who can benefit from EITC. Meanwhile, CTC has been newly established with the intention of helping people finance the upkeep of their children. In addition, tax scheme related to deduction on lease of a house both on a monthly rent basis and a deposit basis has been improved while deduction on the amount of interest redemption in respect of the long-term mortgage loan has been expanded to lessen the burden of housing expenses as well as to invigorate transactions in real estate market. Furthermore, Income Tax Code and Corporate Tax Code have been rewritten in an easy-to-understand manner.

Thirdly, to enhance fairness in taxation and broaden tax base, personal and special deductions for dependent children have been shifted toward tax credit scheme with earned income deduction being adjusted accordingly. Also, tax benefits have been abolished whose purposes have been achieved or which turned out to be no longer effective, and tax benefits, the sunset of which has come, have been maintained after being redesigned if still necessary. The tax base has been secured through such measures as taxation on income derived from cultivation of high-profit yielding crops and position-based allowance for public servants. In the meantime, as part of efforts to bring the shadow economy to the light, the scope of businesses required to issue cash receipt has been broadened, while the ceiling on bounty to be paid to those reporting tax evasion has been raised. In a bid to intensify efforts to prevent off-shore tax evasion, the penalties applicable to taxpayers who violate reporting obligations regarding foreign financial accounts have been toughened and the exchange of financial information with foreign tax administrations has been reinforced.

The 2014 tax code revision was carried out under the vision of “competitive, fair, and principle-based tax system”, focusing on economic stimulation and stability of the public livelihood as top priorities while realizing fair taxation and rationalizing

the tax system.

Firstly, to accomplish “the economic stimulation”, ‘Three Tax Packages for boosting household income’ and other various tax incentives have been introduced with a view to enhancing investment, spurring lackluster private spending, and creating more job opportunities. The ‘Three Tax Packages for Boosting Household Income’ aimed at establishing a virtuous circle between corporate earnings and household income consists of three features: a 10% additional levy on corporate income if the use of corporate retained earnings in the form of facility investment, wage increase and dividend payments falls short of a certain portion of corporate income for the concerned year; a 10% tax credit(5% for large corporations) on the incremental amount in average corporate payroll over a certain base level calculated by taking into account the average corporate payroll over the previous three years; and lowering the withholding rate on dividends from high-dividend paying listed companies from 14% to 9%, and allowing such dividends which is otherwise subject to global taxation to be eligible for the segregated taxation at 25% if elected by a taxpayer. In addition, expanded tax incentives to bolster investment and job creation have become available including increased tax credit by additional 1% in respect of job creating investment for businesses that invest in provinces outside of the Seoul metropolitan area and service industries, allowing for SMEs and service sector businesses to apply the accelerated depreciation for facilities investment, etc. and a new tax credit scheme for SMEs that reemploy women who temporarily left the workforce (due to motherhood, for example) equivalent to 10% of salaries paid for 2 years since such reemployment.

Secondly, in an effort to “stabilize the public livelihood”, the tax system has been improved with a focus on supporting the livelihood of low- and middle-income class and ensuring more secure post-retirement income & more stable supply of housing to the public. To be more specific, the Tax-Free Savings Account was introduced to help property formation of middle and working classes, the limit on deductible payment into the New Home Purchase Savings Account was raised to 2.4 million won per year from 1.2 million won, while expanded tax incentive for the Asset Building Installment Savings Account in the form of eased maturity requirement from 7 to 3 years has become available. Furthermore, in response to rapid aging population, efforts have been made to strengthen the security of income after retirement through eased tax burden on those who elect to receive severance pay in the form of monthly pension payment rather than lump sum payment and increased contribution ceiling for retirement pension eligible for tax credit.

Thirdly, to realize “fair taxation”, efforts have been made to overhaul non-taxation schemes and tax exemptions/reductions, enhance transparency in sources of revenue and find new revenue sources. To ensure tax equality between investments made at

home and abroad, eligibility for underlying tax credit in terms of shareholding by domestic parents in overseas subsidiaries has been tightened from 10% to 25% and extended the special fixed rate corporate tax for cooperatives by 3 years, which imposes the same rate of 9% on each cooperative, with an exception of cooperatives earning more than 1 billion won a year to which a rate of 9% to 17% is applied for the amount exceeding 1 billion won. To increase transparency in revenue sources, the scope of businesses required to issue electronic tax invoices has been broadened, and the automobile-related business (e.g. automobile repairs, automobile parts sales) has been also added to the list of businesses required to issue cash receipts. Furthermore, with an aim of base-broadening, VAT has been levied on electronic services purchased at overseas online market places and on non-traditional financial & insurance services (e.g. money trust investing in real estate) starting July 1, 2015 with capital gains tax at a flexible rate of 10% scheduled to be levied on income arising from transactions of KOSPI200 futures& options and derivatives traded on overseas derivative exchanges made on or after January 1, 2016.

Lastly, in an effort to “rationalize the tax system,” measures have been taken to reinforce the protection of taxpayers’ rights and reduce compliance cost. To be more specific, the system under which taxpayers appealing to the relevant government authority in respect of tax treatment by the NTS may utilize a government-appointed tax representative at his request has been introduced, while the deadline for requesting a refund of overpaid tax was extended from 3 years to 5 years from the filing deadline.

#### **k. Highlights of tax reform in 2015**

In 2015, an outbreak of Middle East Respiratory Syndrome (MERS) resulting in a sharp reduction in domestic consumption presented challenges to Korea’s economy that had been already struggling with slumping exports caused by sluggish global economic recovery. In particular, the government needed to play an active role in recovering economic vitality and stabilizing the public livelihood while addressing economic difficulties among the low income class and the socially disadvantaged. With a view to efficiently responding to these challenges, the 2015 tax code revision was pushed forward with an aim to escape from the low growth trend and to decrease youth unemployment rate while establishing a tax system to secure a growth engine through recovering economic vitality, stabilizing the public livelihood, and consolidating stable sources of revenues by improving tax fairness through rationalization of a tax system.

Highlights of tax reform in 2015 are as follows:

Firstly, in order to boost economic vitality, various tax support measures have been taken to increase youth employment and to resuscitate consumption, export, and investment. In an effort to actively support job creation for the youth, tax scheme for youth employment has been introduced, which allows companies to claim a tax credit for the increased number of regular young employees, and tax incentives have been expanded for SMEs to create more jobs for the youth. Also, to reduce the burden of consumers, individual consumption tax on such items as large-sized home appliances has been abolished, VAT refund procedures for foreign tourists have been significantly improved, and tax support has been provided for tourism and culture industries by increasing the ceiling on cultural entertainment expenses and exempting creative art performance from the VAT. Meanwhile, to lessen the burden of exporting enterprises, a scheme for deferment of import VAT payment has been introduced for exporting SMEs and tax incentives have been expanded to facilitate venture & angel investments and investments in local development. In addition, in an attempt to reinforce competitiveness of corporations, tax incentives for preemptive business restructuring plan has been newly introduced.

Secondly, to stabilize the public livelihood, tax support has been expanded to help wage earners accumulate assets and to assist SMEs, the self-employed, and farmers & fishermen. For example, to back the working class and the self-employed in their asset building in an era of low interest rate, the Individual Savings Account (ISA) was introduced, in which individuals can invest into various financial products such as time deposits, installment savings, investment funds, etc. with a single account. Also, tax incentives for rental business owners have been expanded to promote stable housing of the low and middle income class. In addition, various tax support measures have been taken to increase job security of workers at SMEs and venture companies.

Thirdly, with a view to realizing fair taxation, tax fairness as well as transparency in revenue sources has been improved, and non-taxation, tax exemptions/reductions schemes have been overhauled. New criteria for expenses incurred from the use of business cars to be deductible have been in place to put a restriction on the private use of business cars, capital gains taxation on shares held by major shareholders has been strengthened, and the income derived by ministers or practitioners from performing religious services has become subject to tax. Taxation on gambling industries such as horse racing and slot machine has been strengthened and various tax reliefs have been rationalized. In addition, the number of businesses subject to the obligation of mandatory issuance of cash receipts has been increased, and efforts



have been made to prevent offshore tax evasion by multinational corporations by obligating them to submit a combined report of international transactions.

Lastly, protection of taxpayers' rights has been further enhanced while tax payment procedures have been improved. The applicable scope of complete-comprehensive system of the gift tax has been more explicitly clarified and the procedures of the assessment of inherited or gifted properties have been refined.

### **I. Highlights of tax reform in 2016**

In 2016, Korean economy seemed to lose its steam as the private sector lost its vitality due to lackluster investment and faltering exports as well as higher youth unemployment rate and on top of this, the external conditions worsened in the midst of heightened global economic uncertainties resulting from a slowdown in global trade and a continuous low-growth trend. Against this backdrop, there has been a more urgent demand for the government to make a new breakthrough in a bid to reinvigorate the economy and to be more agile in responding to the rapidly changing global environment. In the meantime, the government was also required to step up its efforts to stabilize the livelihoods of low- and middle-income households.

In order to efficiently cope with such economic and fiscal conditions, the 2016 tax code revision was carried out with a focus on reinvigorating the economic vitality and stabilizing the livelihoods of people. For instance, tax support for research and development of new industries and facility investment has been greatly expanded to secure a future growth engine, and the tax system has been reformed to become more employment-friendly. In addition, through the 2016 tax code revision, the government aimed at stabilizing the public livelihoods by lowering the tax burden of low- and middle-income households, including wage earners, and also laid emphasis on realizing fair taxation as well as rationalizing the tax system.

Highlights of tax reform in 2016 are as follows:

Firstly, a variety of tax measures have been taken in order to inject more vitality into the economy. More specifically, new industries have been actively nurtured by shoring up the research and development of new growth-engine industries with high growth potential and bolstering the support for facility investment for commercialization of promising new growth-engine and core technology. Furthermore, tax incentives for promotion of cultural contents such as films, TV dramas, etc. has been strengthened with a view to creating an environment in which

more new growth-engines can be discovered. Besides, job-creating investment tax credit rate has been raised to facilitate employment and investment linked to job creation, and the tax credit amount for increasing youth employment has also been expanded. In addition, tax support for venture investment has been reinforced by widening tax credits for stock options in order to spur companies with enough fiscal reserves to boost their venture investment and to prop up venture firms in recruiting more talented brains. Moreover, the scope of eligible company for import VAT deferment has been further expanded to include medium-scale companies whose exports account for at least 50% of total sales, and tax benefits have been broadened so as to stimulate domestic consumption of foreign tourists and to help companies carry out their corporate restructuring process in a more expeditious and bold manner.

Secondly, the tax system has been improved, focusing on provision of tax benefits for low- and middle-income households, small- and medium-sized enterprises, the self-employed and fishers/farmers, etc. to stabilize their livelihoods. For example, to buttress the low income households, employment subsidies have increased and to address the low birthrate, tax credits granted to families giving birth to two or more children has been raised, and the time limit for rehiring women whose careers have stalled due to child bearing or rearing by the company for which she had worked before her career disruption has been extended. In the meantime, to lower educational costs incurred by wage earners, the scope of person eligible for the educational expenses tax credit has been widened. Moreover, as part of the government efforts to minimize economic difficulties faced by the public, more active measures have been taken to assist the self-employed and farmers/fishers. Specifically, win-win cooperation between large corporations and SMEs has been strengthened to improve conditions for management and investment by SMEs and the preferential deemed input tax deductible limit for agro-fishery products has been extended while the effective period of preferential sales tax credit rate for credit-card spending and the VAT reliefs provided to agricultural equipment and machineries have been expanded.

Thirdly, to achieve the goal of fair taxation, taxation equity has been enhanced and non-taxation/exemptions schemes have been overhauled. More specifically, the scope of large shareholder subject to capital gains tax has been expanded and the transparency in public-service corporations has been improved. In addition, a system to secure offshore tax base has been introduced, including an exit tax created to charge tax to domestic residents on the capital gains which would have arisen if the emigrants had sold their domestic stocks when they move out of the country and a Country-by-Country Reporting requirement for multinational enterprises.

Meanwhile, the tax package aimed at increasing household incomes has been amended so that excess corporate earnings reserve can flow more into households by motivating corporations to utilize more of their retained earnings in funding certain qualifying expenditure such as facility investment, wage increases and dividend payments.

Lastly, the Korean tax system has been more rationalized under the 2016 tax code revision. For instances, taxpayers' burden of an additional tax has been mitigated in an effort to protect the taxpayers' rights and the required number of preliminary return on capital gains of stocks has been reduced in order to enhance the convenience of tax payment.

#### **m. Highlights of tax reform in 2017**

In 2017, the Korean economy saw the virtuous cycle of job, distribution and growth weakening due to domestic manufacturers moving overseas and aggravated jobless growth. Moreover, with the widening income gaps between large companies and SMEs, and among households, the social polarization, in the absence of an adequate social safety net, has also worsened. As such, we now face a situation where we need, on one hand, to find a breakthrough to revitalize the Korean economy and swiftly respond to the fast changing global environment, and on the other hand, it is urgently required to stabilize the livelihood for working- and middle- class people.

To effectively address these recent economic and fiscal conditions, the Korean government has conducted a tax revision with a focus on job creation and improving income redistribution. Tax support programs have been overhauled in a way to encourage job creation and in order to improve income redistribution, taxation on high income earners has been strengthened while tax burdens on the middle- and working- class have been eased. In addition, for fiscal finance to perform an active role, the tax revision has also stressed securing a solid tax revenue base and the overall tax regime has been rationalized.

Specific measures that have been taken are as follows:

First, for "job creation," the current tax support programs have been overhauled in a way that focuses on jobs so that businesses creating quality jobs can have practical support. With the establishment of "Tax Credit for Enterprises Increasing Job Creation," tax reduction for enterprises increasing the number of jobs has been

expanded while the applicable period of tax credit for social insurance premiums paid by SMEs boosting jobs has also been extended. In addition, enterprises enhancing the quality of jobs has been granted reinforced tax benefits— namely, expansion of tax incentives for SMEs increasing wages or changing the employment status of their workers from temporary to permanent, extension of tax support periods for SME employees and more tax reduction for companies shortening working hours. Furthermore, the groundwork for job creation has been laid by making more tax incentives available for job-creating start-ups and venture companies and for sole proprietors re-opening business and start-up owners.

Second, for “enhancement of income redistribution and tax fairness,” tax burdens on high income earners have been raised to an appropriate level, whereas those on middle and working class people and small scale business owners have been relieved to support a virtuous cycle of distribution and growth. While the maximum income tax rate has been adjusted for the highest income earners, who have relatively high tax bearing capacities, tax burdens on capital gains derived by large shareholders from the transfer of stocks have become heavier. Meanwhile, irregular inheritance or gift practices, such as insider trading between affiliates within the same business group, have now become subject to stronger taxation. On the other hand, EITC payments have been adjusted upward to support low income households and tax credits for monthly rent have been raised to help stabilize housing. Income deduction for credit card payments made in traditional markets has also been increased temporarily. Furthermore, deemed input tax credit for agricultural and fisheries products has been adjusted upward, and tax support for sole proprietors, farmers, and fishermen — such as gift tax relief for fishing vessels, land for fishing purposes — has been expanded.

Third, measures have been taken to secure “a stable tax revenue base,” so as to help buttress fiscal finance. Corporate tax rate for some large corporations with sufficient funding has been raised back to the previous level, and the effectiveness of tax relief programs, the sun-set of which is due, has been assessed, and either repealed or redesigned. In addition, measures to improve transparency in tax bases have been reinforced such as through expanding the coverage of the verification of compliant tax filing and introducing proxy VAT payments by a credit card company.

Finally, the Korean tax regime has become “rationalized” under the 2017 tax revision. Tax payers’ rights have been strengthened by extending the period of prior notice for tax audit while the overall taxation system has been improved by adjusting requirements for public interest corporations and carrying out more robust follow-

up monitoring for designated donation organizations, the donations to which are deductible.

#### **n. Highlights of tax reform in 2018**

In 2018, the Korean economy faced a structural transition where in the midst of continued polarization and low growth, future challenges are also looming large. The situation requires us to come up with a breakthrough to revitalize the economy, promptly responds to the fast-changing global environment, and strive to stabilize the livelihoods of the middle class with urgency.

To effectively address these recent economic and financial developments, the 2018 tax revision is directed toward operating fair and just tax policies, stressing enhancement of income distribution and fair taxation, and revitalization of the economy. It further supports job creation and retention as well as innovative growth with a focus on rationalization of the tax regime. Improving income distribution and enhancing tax fairness have become the focal points of the revision. To help create jobs and buttress innovative growth, tax credits for enterprises increasing job creation have been expanded focusing on youths with an extended exemption period, and tax incentives for companies conducting R&D for new growth technologies and turning them into business have been increased.

The highlights of the 2018 tax reform are as follows:

First, for “income redistribution”, Earned Income Tax Credit (EITC) as a mainstay of the so called working welfare has been redesigned and expanded. Under the motto of “Bigger benefits, Wider coverage, Swifter provision”, the EITC has seen a great hike both in the number of beneficiaries and the amount of payments since its inception in 2009. The frequency of provision has also increased to twice a year from once every year, thereby enhancing the efficiency of income support. Furthermore, to help ease child care burdens of the low income families, the 2018 tax reform has included recipients of livelihood benefits to be covered by Child Tax Credit with bigger allowances.

Second, tax burdens on real estate ownership has been rationalized for “fairer taxation.” Under the banner of “Sustained Enhancement in Tax Fairness”, the government announced the comprehensive real estate tax reform on July 6, 2018 and adjusted taxes on housing rental income to an appropriate level. According to the

announcement, real estate rental income of 20 million won or less is subject to tax and tax burdens on real estate assets have been modified to a reasonable extent. On top of that, acknowledging that offshore tax evasion —shifting and hiding income and property overseas— is a typical act of violation of tax justice, the government also toughened taxation on overseas transactions, raised penalties for failure to report overseas properties and FDIs, and extended the statute of limitation applicable to offshore tax evasion.

Third, to “support sustained growth through job creation and innovative growth”, the 2018 tax revision provides bigger tax incentives to businesses increasing more jobs in the designated special areas across the country and reinforces tax support for companies starting operations in regions at risk through corporate and individual income tax exemption so as to help the struggling regions better overcome challenges with employment retention. Under the 2018 tax revision, the risks of businesses conducting R&D for and investing in the new growth technologies are shared by the government in the form of tax incentives. Plus, various tax supports have also been bolstered to encourage core talents to stay on the job and create relevant intellectual properties therefrom.

Lastly, the overall tax regime has been more “rationalized.” In a bid to overhaul taxation on eco-friendly energy sources, taxes levied on bituminous coals and natural liquefied gas (LNG) have been adjusted in proportion to their environmental costs. In order to promote competition and transparency in the duty-free market, entry barriers to duty-free business have been eased and it has been mandated that the number of duty-free licenses allowable for each region be disclosed in advance. Furthermore, tax penalties and additional dues that are equivalent to delayed interest in nature have also been lowered to alleviate excessive burdens for tax payers.

#### **o. Highlights of tax reform in 2019**

Amid a downward trend of growth potential, the Korean economy faced a further downside risk in 2019 mainly caused by worsening external factors such as a lackluster global economy. Also, there was a demand for improving income distribution due to protracted income reduction for the low-income bracket derived from the aging population and a decrease in jobs available for the vulnerable. To address these socio-economic challenges, the 2019 tax revision focuses on: (1) enhancing inclusiveness and fairness of the economy, (2) building a tax regime that supports economic revitalization and innovative growth, (3) elevating tax fairness through streamlined tax schemes, with building the framework of an “Innovative and

Inclusive Country Living Together” as a general direction of tax policy maneuvers.

The highlights of the tax revision are as follows.

Firstly, various tax support programs have been devised to help recover economic vitality.

Tax support to promote investment has been augmented with measures including a temporary tax credit increase for investing in production enhancement facilities and the wider deduction coverage for public safety facilities. Furthermore, the tax revision 2019 buttresses robust domestic consumption and export by extending individual consumption tax relief for passenger vehicles, increasing the threshold on duty free purchases by Korean nationals to redirect outbound consumption inward, expanding immediate tax refund for foreign tourists and lengthening the application period of special treatment for VAT refunds.

In addition, the 2019 tax revision expanded R&D tax credit for new growth & source technologies and shored up support for outsourced R&D cases where science technologies are coupled with the service sector. The tax revision further reinforced tax support for new technologies and innovative areas by expanding special treatment in gift taxation for start-up creation funds and raising the ceiling on tax exemption for profits from start-up stock options exercised.

Secondly, with a view to strengthening inclusiveness, tax schemes have been upgraded to focus on supporting such areas as the working-and-middle income class, SMEs and employment. Investment tax credits for companies hiring local talent to co-exist with the local community has been expanded to beef up investment promotion and job creation there, and tax relief programs for social enterprises providing jobs to the less privileged have been redesigned to be labor friendly. Moreover, tax support for farmers and fishermen and low-income workers suffering economic difficulties has been bolstered through such measures as extending application of deemed input tax credit for tax-exempt agricultural produce, raising the minimum EITC(Earned Income Tax Credit) payment and expanding tax exemption on overtime pay of production workers.

Thirdly, Tax equity and transparency in tax revenue sources have been elevated to promote fair taxation. With regard to public interest corporations, recommendation and follow-up management proceedings have been streamlined to improve transparency while expanding coverage of the mandatory disclosure and external

audit. Meanwhile, tax benefits for registered housing rental business operators remain effective to promote housing rental registration, yet the exemption rate thereon has been adjusted down to an appropriate level.

Lastly, the tax regime has been rationalized. To prevent concurrent imposition of penalties and administrative fines, the administrative fines for breaching reporting duties on overseas financial accounts have been revised to a reasonable level, while the tax surcharge verification program for stocks held by the largest shareholders has been enhanced to realize taxation that considers substantial control premiums of the stock holdings.



*Part 2: National Taxes – Internal Taxes*

**Chapter II: Income Tax**

**1. Taxpayer**

**a. Resident**

A person who has a domicile in Korea or has resided in Korea for 183 days or longer during one taxable period is subject to income tax on all income derived from sources both within and outside Korea. Provided, a foreign resident who has a domicile or has resided in Korea for five years or less is subject to income tax on incomes paid within Korea or remitted to Korea in the case the taxable incomes are derived from sources outside Korea. Korean public officials, directors and personnel engaged in overseas service on behalf of an employer who is a Korean resident, or a domestic company and a foreign subsidiary invested wholly by domestic companies are deemed to be residents of Korea.

**b. Non-resident**

A person who is not a resident of Korea is deemed a non-resident and is subject to income tax only on income derived from sources within Korea.

**2. Taxable, Non-Taxable and Tax-Exempt Income**

**a. Taxable Income**

Resident individuals are taxed on their worldwide income. Non-resident individuals are taxed only on Korean-source income. Although similar, the definition of income applicable to non-residents is broader than that of income applicable to residents.

**b. Global and Schedular Income Taxation**

Income derived by residents and non-residents is subject to global and schedular taxation. Under global taxation, business income, wages and salaries, pension income, and "other income" are aggregated and taxed progressively. Interest and dividends were taxed globally until 1997, but they were temporarily excluded from

global taxation until 2000. A combined income of dividends and interest exceeding 20 million won is subject to global taxation. Currently, interests and dividends are subject to withholding tax of 14%. Under schedular taxation, capital gains and retirement income are taxed separately at varying tax rates.

(1) Global income

Global income denotes income subject to global taxation and includes the following: interests, dividends, business income, wages and salaries, pension income, and other income.

(a) Interest

- i) Interest and discount amounts received during a tax year from debentures and securities issued by a nation's government/its local authorities, or a domestic/foreign corporation
- ii) Interest and discount amounts received during a tax year from deposits and installment savings payable both within and outside Korea
- iii) Interest from non-commercial loans
- iv) Savings-type insurance premiums with a maturity of less than ten years
- v) Other similar incomes as a compensation according to spending money
- vi) Where transactions or activities generating one of the incomes aforementioned are combined with a derivative, income from transactions or activities of such derivative

(b) Dividends

- i) Dividends and distributions of profits and retained earnings, and distribution of interest received from a domestic or foreign corporation during construction
- ii) Distributions of profits received from a non-corporate entity such as private associations or foundations
- iii) Deemed dividends and distributions; See 3.b. (2) ("Dividend Income")
- iv) Amounts designated as dividend by the Corporation Tax Law
- v) Dividend-yielding financial assets
- vi) Other similar incomes as an income distribution
- vii) Where transactions or activities generating one of the incomes

aforementioned are combined with derivatives, income from transactions or activities of such derivative

(c) Business income

- i) Profits from agriculture, forestry and fishing
- ii) Profits from mining and quarrying
- iii) Profits from manufacturing
- iv) Profits from electricity, gas, steam and air conditioning supply
- v) Profits from water supply; sewage, waste management and materials recovery
- vi) Profits from construction
- vii) Profits from wholesale or retail trade
- viii) Profits from transportation and storage
- ix) Profits from accommodation and food service activities
- x) Profits from information and communication
- xi) Profits from financial and insurance activities
- xii) Profits from real estate activities
- xiii) Profits from professional, scientific and technical activities
- xiv) Profits from business facilities management and business support services; rental and leasing activities
- xv) Profits from education
- xvi) Profits from human health and social work activities
- xvii) Profits from arts, sports and recreation related services
- xviii) Profits from membership organizations
- xix) Profits from activities of households as employers

(d) Wage and salary income

- i) Wage, salary, remuneration, allowance, bonus, and any other allowance of a similar nature received in return for services
- ii) Income, other than retirement income, received due to retirement
- iii) Compensation received by employees or faculty members of a college/university during employment for valuable inventions developed in the course of duties

(e) Pension income

- i) Public pension income prescribed by the relevant laws such as the National Pension Law
- ii) Other pension income from any pension account prescribed by the Presidential Decree

(f) Other income

The term "other income" denotes specifically designated categories of income other than interest, dividends, business income, wages and salaries, pension income, retirement income, and capital gains. Other income includes the following:

- i) Prize money awards and other similar money or goods
- ii) Money or goods received from participation in a lottery, and any other prize won in a contest
- iii) Money or goods received as a prize in a lottery, drawing, or any other contest, including the purse payable to the buyer of a winning ticket for horse racing, cycle racing, motorboat racing, bull fighting and sports betting game
- iv) Fees for use of copyrighted materials received by any person other than the creator of the material
- v) Royalties given as consideration of using films or tapes for radio or television broadcasting, or from such use of other similar assets or rights
- vi) Rent derived from a temporary lease of real estate or personal property, goods, or places
- vii) Damages or indemnity payments for breach or cancellation of a contract
- viii) Gains from the alienation of mining rights, fishing rights, industrial property rights, industrial information, industrial secrets, trademarks, goodwill (including certain leases of stores), rights derived from the permission to exploit earth, sand, and stone, the right to exploit and use subterranean water, etc.
- ix) Transfer gains of paintings, writings and antiques which exceed 60 million won of transfer price per piece
- x) Compensation received by employees or faculty members of a

college/university after retirement for valuable inventions developed in the course of duties

- xi) Money and valuables received as bribes or for influence peddling and breach of trust
- xii) Income received by a religious activities related worker from religious organizations with respect to his or her religion-related activities such as presiding over religious ceremonies (hereinafter referred to as “religious income”). However, in the case of withholding or filing the final returns of religious income as wage and salary income, wage and salary income.

## (2) Scholar income

Retirement income and capital gains are items subject to schedular taxation and thus taxed separately at varying rates.

### (a) Retirement income

Lump sum money out of incomes received from retirement and etc.

### (b) Capital gains

- i) Gains arising from the transfer of land or buildings
- ii) Gains arising from the transfer of rights related to real estate
- iii) Gains arising from the transfer of shares in a company listed on the Stock Market and the KOSDAQ Market of the Korea Exchange by a large shareholder and the transfer of shares through over-the-counter transactions

\* Gains realized by an individual taxpayer on the transfer of shares in a company listed on the Stock Market and the KOSDAQ Market of the Korea Exchange (excluding those traded at over-the-counter market) are not taxable.

\* The scope of a large shareholder: ① or ②

① Shareholder or investor and his/her related persons whose combined shares are 1% (2% in the case of shares listed on the KOSDAQ Market, 4% in the case of shares listed on the KONEX Market) or more of the total shares as of the end of the immediately preceding fiscal year of the year in which transfer of shares takes place

② Shareholder or investor and his/her related persons whose combined market price of shares are 1.5 billion won (1.5 billion won in the case of shares

listed on the KOSDAQ Market, 1 billion won in the case of shares listed on the KONEX Market) or more as of the end of the immediately preceding fiscal year of the year in which transfer of shares take place

- iv) Gains arising from the transfer of shares in a company not listed on the Stock Market and the KOSDAQ Market of the Korea Exchange
- v) Income generated from transferring any of the following assets (hereinafter referred to as "other assets"):
  - a) Business rights transferred with fixed assets for business
  - b) Rights to use, membership, and other rights, irrespective of their nomenclature, to use facilities issued to a person becoming a member of an organization contracted to be entitled to exclusively use the facilities or to use them on more favorable conditions than general users
  - c) Specified Stocks (where an oligopolistic stockholder of a corporation, 50% or more of whose values come from ownership in real estate, etc., transfers more than 50/100 of its stocks to a person, other than himself or herself)
  - d) Stocks of a corporation, 80% or more of whose values are ownership in real estate, such as country club, ski resort, resort condominium, specialized resort facility
  - e) The right of removing and reconstruction to transfer with the assets in subparagraph

### **c. Non-Taxable Income**

Certain items of income are not subject to income tax. The following categories of income are not taxable:

- (1) Income dedicated to public goods: Profits from property placed in trusts for public welfare
- (2) Interest and dividend income
  - (a) Interest from long term (over 7 years) home savings less than 3 million won per quarter
  - (b) Interest from savings account of less than 30 million won with mutual financial institutions of agricultural or fishing associations on condition that

the depositor is 20 years or older when opening the account

- (c) Interest or dividends from savings account of less than 50 million won held by the elderly (65 years or older) or the disabled
  - (d) Dividends from stocks of up to 18 million won owned for more than one year by employees or stockholders who are minority stockholders
  - (e) Interest of up to 5 million won on housing subscription saving deposits made by those aged between 19 and 34
  - (f) Interest on installment savings deposits paid in by farmers and fishermen for 3 or 5 years with an annual ceiling of 2.4 million won
  - (g) Dividends from contributions of up to 10 million won paid by a person to the cooperative of which he or she is a member
  - (h) Interest on deposits of up to 30 million won paid by a person to the cooperative of which he or she is a member
  - (i) Interest on installment savings plans subscribed to by service members for 6 to 24 months with a monthly installment ceiling of 400,000 thousand won
- (3) Certain categories of business income
- (a) Real estate rental income accruing from using the paddies and dryfields for the production of crops and from the house rent, which is prescribed by the Presidential Decree
  - (b) Profits from a farmer's auxiliary business
    - i) Profits from raising livestock up to an amount specified by governmental guidelines: Profits earned from livestock kept more than the number specified in the guidelines are taxable. If the actual number of livestock exceeds the number specified in the guideline, that portion of income is taxed
    - ii) Profits not exceeding 30 million won per year from other auxiliary businesses, such as straw production, etc
  - (c) Profits not exceeding 50 million won per year from fishing and aquaculture, specifically those conducted from inland waters, and coasts and inshore waters
  - (d) Profits from producing traditional wine: profits derived from producing traditional wine in the rural area (in the case the income is 12 million won or less)

- (e) Profits from timber to the extent of 6 million won per annum
  - (f) Profits from farm production not exceeding 1 billion won per year
- (4) Wage and salary income and retirement income
- (a) Pay received by certain enlisted men in the armed forces, or persons mobilized under law
  - (b) Compensation or other payments made for consolation received by those injured or debilitated while furnishing a service
  - (c) Education fees as prescribed by the Presidential Decree
  - (d) Unemployment benefit under the employment law, the benefit of childcare leave and the benefit of maternity leave after delivery, job search subsidies for supporting veterans under the relevant Act
  - (e) Wages received by persons serving with a foreign government or the U.N., and organizations thereof; in the case of a foreign government, the principle of reciprocity is applied
  - (f) Wages in the form of an overseas service not exceeding 1 million won per month, 3 million won for the crew of deep-sea fishing vessels and ships and the construction worker overseas including assistant workers in construction sites
  - (g) Reimbursement expenses prescribed by the Presidential Decree
  - (h) Allowances for night shifts, overtime work, and holiday duty received by the following persons with monthly wages not exceeding 2.1 million won and the total remuneration in the immediately preceding year not exceeding 30 million, who, in accordance with Enforcement Decree of Income Tax Act, are:
    - i) Engaged in production or a production-related field while providing employment service at factories or mines
    - ii) Employed by those engaged in fishing industry
    - iii) Engaged in transportation, care-giving, hairdressing, leisure and tourism, accommodation, cooking, sales at a store, product rental, communications-related sales, cleaning, security, household work, agriculture, fishing, vending machine and parking lot attendance and other simple manual work in service areas.
  - (i) The amount of money not exceeding 5 million won a year, as



compensation received by employees or faculty members of a college/university for valuable inventions developed in the course of duties

(5) Pension income

- (a) Survivor pension and disability pension under the National Pension Law
- (b) Survivor pension, disability pension, war disablement pension under the Government Employees' Pension Law
- (c) Pension receivable as a result of industrial accidents
- (d) Pension receivable by prisoners of war

(6) Other income

- (a) Awards or compensation received under the National Security Law
- (b) Prizes of money or other property received upon conferment of a decoration or other public prizes under the law
- (c) The amount of money not exceeding 5 million won a year, as compensation received by employees or faculty members of a college/university after retirement for valuable inventions developed in the course of duties (in case where employees or faculty members of a college/university receive compensation for valuable inventions as wage and salary income which is non-taxable for the taxable year concerned, the amount of the compensation shall be deducted from 5 million won)
- (d) Capital gains from the transfer of paintings, calligraphic works, and antiques that were state-designated cultural properties
- (e) Gains from the transfer of paintings, calligraphic works, and antiques to museums or art galleries
- (f) School expenses, meals or meal expenses received by religious activities related workers, payment received to the extent of 100 thousand won per month from religious organizations with respect to religious activities related worker's or his/her spouse's childbirth or childcare for child aged 6 or under, profits derived by religious activities related workers from private residence

(7) Capital gains

- (a) Capital gains from the disposal of real estate resulting from adjudication of bankruptcy
- (b) Capital gains from exchanges, division, or annexation of farmland by the government and local autonomous bodies or from the exchange of land by the owner for his own cultivation
- (c) Capital gains from the transfer of one house per household, together with the land upon which the house sits (limited to an area of ten times the floor space of the house, or five times the floor space in a designated urban planning district): To obtain this exemption, the seller must hold the house at least for 2 years or more, the house must not be held by the seller for more than two years, and the house must not be worth more than 900 million won. This exemption is extended to a second house per household in the case where a taxpayer acquires a rural house (located in areas other than Seoul, Incheon or Gyeonggi-do) by inheritance, or for the purpose of returning to a farming lifestyle, or due to rural exodus. The special exemption for one house for one household is a case where a household holding only one house for more than 2 years and transferring it is granted exemption on capital gains taxes, provided that a house acquired after 2 August 2017 from an area subject to adjustment is required to be resided by the owner for more than 2 years. Special exemption treatment for a temporary holding of two houses by one household is applied if:
  - i) one household, within 3 years (1 year if transferring within area subject to adjustment) of acquiring a new house, transfers the old house
  - ii) one household holding an inherited house or cultural property house or rural house transfers a regular house
  - iii) one household with a regular house acquires another house outside the Seoul Metropolitan Area by reason of school, work circumstances, care of illness transfers such regular house.
- (d) The liquidation money due to the decrease of an area on official cadastral records as a result of the determination of a boundary

#### **d. Tax-Exempt Income**

(1) A taxpayer having any of the following types of income may claim a credit against global taxable income. The amount of credit is calculated by multiplying the tax before exemption by a fraction [the amount of tax computed without application of the credit, multiplied by a fraction (the amount of income described in (a) and (b) below over the total income of the taxpayer)].

- (a) Wages received by a foreigner working in Korea under a government agreement, paid by either government or by both
- (b) Income earned from overseas transportation business by non-residents and alien residents, provided that reciprocal tax treatment is granted to Korean taxpayers by the country of residence of the alien taxpayer

(2) Capital gains

- (a) Capital gains from the alienation of farmland that has been cultivated for eight years or longer
- (b) Capital gains realized by farmers from the transfer of farmland for the purpose of acquiring another parcel of farmland in its place

\* Ceiling on exempted amount per year:

→ 100 million won

\* Ceiling on exempted amount for 5 years:

→ 200million won (100 million won for substitute land for farmland/ the exchange of farmlands)

### **3. Tax Base and Deductions**

#### **a. Basic Rules for Calculating the Tax Base**

(1) Substance over form

The provisions governing the calculation of taxable income are applicable based on the actual economic substance rather than upon merely formal distinctions.

(2) Classified calculation

The tax base shall be separately calculated with respect to each class of income earned by the taxpayer; namely, global income, retirement income and capital gains.

(3) Global income tax base

The global income tax base is the amount remaining after deducting personal exemptions from the aggregate of taxable global income, including such items discussed above as interest, dividends, business income, wage and salary income, pension income, and other income.

(4) Non-inclusion in global income

The following items of income are not included in global income but are either assessed separately or are non-taxable.

- (a) Non-taxable income
- (b) Wages of daily workers
- (c) Interest income subject to separate taxation that is eligible for withholding rates (See, 7. a. (1) (a) "Interest income")
- (d) Interest income and dividend income up to 20 million won
- (e) Income categorized as other income, up to 3 million won per year
- (f) Pension income from a pension account up to 12 million won per year

(5) Schedular taxation

Retirement income or capital gains are subject to schedular taxation as independent income categories.

(6) Taxable year to which gross income is attributable

Gross income is attributed to the taxable year in which it is settled. The time for attributing amounts of global income to global receipts is shown below:

- (a) Interest: the date payment is received
- (b) Dividends:
  - i) Dividends on bearer shares: the date payment is received

- ii) Dividends made under the disposal of surplus: the date on which a resolution on appropriation of surplus is made by the company concerned
  - iii) Deemed distribution: the date of decision of redemption of stocks, the date of decision on the decrease of capital or transfer into capital, or the date of the registration of merger or of final determination of the value of residual assets, or the date of receiving consideration
  - iv) An amount appropriated as dividends by the Corporation Tax Law: the date on which accounts are settled
- (c) Business income:
- i) Sales of merchandise or products: the date of delivery or of the products reaching a deliverable state
  - ii) Consignment sales of merchandise or products: the date of sale by the consignee
  - iii) Sales of merchandise or products on a long-term installment or deferred payment basis: the date of delivery, subject to the matching principle in the case of expenses being incurred after the sale
  - iv) Performance of personal services: the date set to receive remuneration for services of the date the supply of services has been completed, whichever comes first
  - v) Sales or transfers of other assets: the date the consideration is received, or, if earlier, the date of registration or delivery
  - vi) Profits from rental of assets: in the case where the payment date is fixed by contract or custom, such fixed day; in the case where payment date is not fixed by contract or custom, the paid day
- (d) Wage and salary income:
- i) Ordinary wage and salary income: the date of services provided
  - ii) Bonuses given as a result of an appropriation of surplus: the date of the resolution by the Board of Directors to disposal of the surplus
  - iii) An amount regarded upon as bonus by the tax authorities under the Corporation Tax Law: the date of furnishing services in the relevant business year of the corporation

- (e) Retirement income: the date of termination of employment
- (f) Capital gains: the date of receiving the consideration giving rise to the gain
- (g) Other income: the date of receipt

(7) Taxable period

- (a) General rule: Individual taxpayers use the calendar year as tax year; January 1 through December 31
- (b) January 1 through the date of death, in the case of a resident's death
- (c) January 1 through the date of departure from the country, in the case of a resident who becomes a non-resident

**b. Calculation of Taxable Income**

Taxable income is computed as the sum of the following items of income.

(1) Interest

Amount of income as determined above

(2) Dividends

- (a) Dividend income actually distributed to the amount of income as determined above

(b) Deemed distribution

- i) The value of stocks or investments acquired by transferring surplus or reserves into capital, except the following:

- ① Transferring gains on retirement of treasury stock into capital more than 2 years after the retirement

- ② Transferring asset revaluation reserve into capital (in the case of a listed corporation)

- ii) The amount in excess of the investment received by an investor through the liquidation of a corporation or through a reduction of capital

- iii) The amount received by an investor upon the merger or consolidation of a corporation more than his investment

- iv) The value of stock dividends or additional investment interests acquired

by an investor as a result of another investor renouncing his preemptive right to acquire an allocated portion of stock or investment interest following a capital increase of a corporation

(3) Business income

The total amount of income in each taxable period remaining after deduction from gross profits of allowable expenses and losses carried over for:

- (a) 10 years if incurred before January 1, 2020
- (b) 15 years if incurred after January 1, 2020

(4) Wage and salary income

The total amount of income remaining after the deduction as specified in the table below: used to calculate the tax base for the income of wage, salary, etc after the deduction described herein has been made for that taxable period

Deduction for wage and salary income (150,000 won per day for a daily worker), as computed in the table below with the ceiling of 20 million won.

| <b>Wage and Salary Income</b>    | <b>Deductions</b>   |
|----------------------------------|---|
| 5 million won or less            | 70% of wage, salary, etc.                                 |
| Over 5 - 15 million won or less  | 3.5 million won + 40% of the excess over 5 million        |
| Over 15 - 45 million won or less | 7.5 million won + 15% of the excess over 15 million won   |
| Over 45- 100 million won or less | 12 million won + 5% of the excess over 45 million won     |
| Over 100 million won             | 14.75 million won + 2% of the excess over 100 million won |

(5) Pension income

The total amount of income remaining after the deduction as specified in the table below with the deduction ceiling of 9 million won

| <b>Pension income</b>         | <b>Deductions</b>                                       |
|-------------------------------|---|
| Not more than 3.5 million won | Pension income amount in full                           |
| 3.5- 7 million won            | 3.5 million won +40% of the excess over 3.5 million won |

|                    |   |
|--------------------|---|
| 7- 14 million won  | 4.9 million won + 20% of the excess over 7 million won  |
| Over14 million won | 6.3 million won + 10% of the excess over 14 million won |

(6) Retirement income

The taxable income is calculated according to the following formula:

- ① Retirement income – an amount determined based on the length of service\*
- ② (①x 12) ÷ service year
- ③ ②–an amount determined based on the converted salary\*\*

\*Amount determined based on the length of service:

| Service year          | Deductions                                     |
|-----------------------|--|
| Not more than 5 years | 300,000 won per year                           |
| 5-10 years            | 1.5 million won + 500,000 x (service year–5)   |
| 10-20 years           | 4 million won + 800,000 x (service year–10)    |
| Over 20 years         | 12 million won + 1,200,000 x (service year–20) |

\*\*Amount determined based on the converted salary:

| Converted salary                          | Deductions  |
|---|---|
| Not more than 8 million won               | 100% of converted salary  |
| Over 8 million – 70 million won or less   | 8 million won + (60% of the excess amount over 8 million won)     |
| Over 70 million – 100 million won or less | 45.2 million won + (55% of the excess amount over 70 million won) |
| Over 100 million –                        | 61.7 million won + (45% of the excess amount                      |



|                         |   |
|-------------------------|---|
| 300 million won or less | over 100 million won)   |
| Over 300 million won    | 151.7 million won + (35% of the excess amount over 300 million won) |

(7) Capital gains

Gains arising from the transfer of land, buildings, or rights thereon, stocks, and other assets specifically enumerated in the Income Tax Law shall be taxed separately from global income.

Capital gains may be classified into the following three categories:

- (a) Gains arising from the transfer of land or buildings
- (b) Gains arising from the transfer of rights to real estate such as surface rights, leaseholds, or rights to acquire real estate
- (c) Gains arising from the transfer of stocks

Gains on transfer and the amount of capital gains are calculated as follows:

Gains on transfer = Selling price - Necessary expenses

Amount of capital gains = Gains on transfer - Special deduction for long-term possession of land and buildings - Capital gains deduction

Necessary expenses include acquisition costs, costs of installations or improvements, and other capital expenditures.

Special deductions for long-term holding of land or buildings are calculated as follows:

- (d) The transfer of the right to the benefit of the trust
- (a) In the case of transfer of land or buildings in general

| Holding period              | Deduction rate | Holding period               | Deduction rate |
|-----------------------------|----------------|------------------------------|----------------|
| 3 years - less than 4 years | 6/100          | 10 years- less than 11years  | 20/100         |
| 4 years - less than 5 years | 8/100          | 11 years - less than 12years | 22/100         |
| 5 years - less than 6 years | 10/100         | 12 years - less than 13years | 24/100         |
| 6 years - less than 7 years | 12/100         | 13 years - less than 14years | 26/100         |

|                              |        |                               |        |
|------------------------------|--------|-------------------------------|--------|
| 7 years - less than 8 years  | 14/100 | 14 years - less than 15 years | 28/100 |
| 8 years - less than 9 years  | 16/100 | More than 15 years            | 30/100 |
| 9 years - less than 10 years | 18/100 |                               |        |

※ Special Deductions for the long-term holding of land are not allowed for unregistered assets and a multiple home owner within an area subject to adjustment.

(b) In the case of transfer of a house per household

| Holding period               | Deduction rate | Residing Period   | Deduction rate |
|------------------------------|----------------|---|----------------|
| 3 years - less than 4 years  | 12/100         | 2 years - less than 3 years<br>(Limited to more than 3 years of holding period) | 8/100          |
|                              |                | 3 years - less than 4 years   | 12/100         |
| 4 years - less than 5 years  | 16/100         | 4 years - less than 5 years   | 16/100         |
| 5 years - less than 6 years  | 20/100         | 5 years - less than 6 years   | 20/100         |
| 6 years - less than 7 years  | 24/100         | 6 years - less than 7 years   | 24/100         |
| 7 years - less than 8 years  | 28/100         | 7 years - less than 8 years   | 28/100         |
| 8 years - less than 9 years  | 32/100         | 8 years - less than 9 years   | 32/100         |
| 9 years - less than 10 years | 36/100         | 9 years - less than 10 years  | 36/100         |
| Not less than 10 years       | 40/100         | Not less than 10 years  | 40/100         |

A capital gains deduction of 2.5 million won per year is given without regard to the amount. However, capital gain deduction is not allowed for unregistered real estate.

(8) Other income

(a) Religion income

| Religion income              | Deductions   |
|------------------------------|--|
| Not more than 20 million won | 80% of income.                                     |
| 20- 40 million won           | 16 million won + 50% of the excess over 20 million |
| 40- 60 million won           | 26 million won + 30% of the excess over 40 million |
| Over 60 million won          | 32 million won + 20% of the excess over 60 million |

※If the necessary expenses actually spent exceed the amount above, that excess amount is included in necessary expenses.

(b)The aggregate amount of income of this category less necessary expenses; remuneration from an independent lecture allows a deduction of 60% thereof as necessary expenses.

**c. Calculation of Business Income**

(1) Taxable business income is the aggregate amount of income in each taxable period remaining after the deduction from gross receipts of necessary expenses and losses carried over for:

- (a) 10 taxable years if incurred before January 1 2020;
- (b) 15 taxable years if incurred after January 1, 2020.

(2) Gross receipts

(a)Gross receipts of a business are the aggregate of money or property receivable in connection with the activities of a business in the tax year.

i) If anything other than money is received, the income amount is calculated as the monetary value thereof prevailing at the time of transaction.

- ii) As to prepaid rentals in calculating the amount of gross income of real estate rental income, the aggregate in each year of the amount obtained by dividing such prepaid rentals by the number of months in the contract period shall be the amount of gross income.
- iii) The value of returned goods and a discount on sales is offset in the calculation of gross receipts for the year.
- iv) Sales discounts in the case of early settlement of an account receivables are deducted from gross receipts.
- v) Bounties and other similar sums received from sellers are included in gross receipt.
- vi) If tax amounts counted in necessary expenses are refunded, the amount of refund is included in gross receipts.
- vii) A decreased amount of liabilities due to exemption or the lapse of a liability is accounted for as gross receipts; however, such an amount used for keeping carried- over deficits in balance are not counted in gross receipts.
- viii) Such other amounts of receipts related to the business as have been reverted or are to be reverted to the businessperson in question are counted in gross receipts.

(b) Non-inclusion in gross receipts

The following items are not covered in gross receipts:

- i) Amount of income tax or inhabitant tax refunded or to be refunded, used for the payment of other tax amounts
- ii) Value of assets received without compensation and amount of decrease in liabilities due to exemption or lapse of debts, used for balancing carried-over deficits
- iii) Value of products used by businesses: self-produced raw materials or fuels
- iv) Amount of indirect taxes, such as the Value Added Tax, collected from customers to be turned over to the tax authorities

- v) Interest on the refund of overpayments of national taxes or local taxes

(3) Necessary expenses

- (a) Necessary expenses are the aggregate of expenses incurred in relation to the accrual of gross receipts for each taxable period and include the following:

- i) Purchase price of raw materials or goods corresponding to products or goods sold for the year concerned/ Discounts on purchases and purchase discounts are deducted from purchase price
- ii) Book value of transferred assets at the time of the transaction (in the case of a real estate sales business)
- iii) Salaries and wages
- iv) Cost of repairing business assets, including management and maintenance expenses
- v) Depreciation of fixed assets of the business
- vi) Rent of business assets
- vii) Interest on borrowings
- viii) Bad debts (including VAT thereon)
- ix) Loss on revaluation of assets
- x) Mine exploration expenses including development costs
- xi) Advertisement expenses and sales promotion expenses
- xii) Public contributions, designated donations and entertainment expenses within the prescribed limit
- xiii) Deferred expenses such as start-up costs or experimental and research expenses counted in necessary expenses

- (b) Tax free reserve

Contributions to the following reserves are considered necessary expenses, within the prescribed limits.

- i) Reserves for retirement of up to 5% of total wages paid to employees who have served for one year or more: The accumulated amount of the reserve is limited to 30%\* of the estimated retirement allowances payable to all employees at the closing date of the year.

\* Such limit on reserves will be phased out by 5% each year

| 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 |
|------|------|------|------|------|------|------|
| 30   | 25   | 20   | 15   | 10   | 5    | 0    |

- ii) Reserves for bad debts up to an amount equal to 1% of aggregate sales on credit or accounts receivable and VAT thereon, as of the closing date of the respective year: The amount remaining after offsetting the actual bad debts is included in the gross receipts in the following year.
- (c) The following amounts are treated as necessary expenses in the calculation of income for the year.
- i) Gains on insurance claims of a resident used for acquisition of the same kinds of fixed assets as the lost or broken fixed assets, and those used for improvement of the acquired fixed assets or the damaged fixed assets (within 2 years from the beginning day or the year following the year in which the gains fall)
  - ii) Amount of subsidy actually used for acquisition or improvement of fixed assets
- (d) Non-inclusion of necessary expenses

The following losses and expenses are not counted as necessary expenses in the calculation of the income of a resident.

- i) Income tax (including foreign income taxes), inhabitant tax, and tax paid or payable as a result of delinquency in the payment of tax owed (including penalty taxes thereof)
- ii) Fines, minor fines, penalty taxes, and expenses for disposition of taxes in arrears
- iii) Public imposts, other than those which a taxpayer has an obligation to pay under the law
- iv) Losses from revaluation of assets other than inventory or short-term investment assets
- v) Expenses deemed by the government not to have any direct connection to the business
- vi) Unpaid amounts of liquor tax or other excise taxes on inspected or carried out products not yet sold
- vii) Interest on borrowing incurred by a resident and used to fund

construction, and interest on private loans of which the sources are unknown

- viii) Depreciation amount of the fixed assets allocated for each year, exceeding the amount allowed as necessary expenses
- ix) Household expenses and prepaid expenses
- x) Value added tax paid on inputs

(e) Non-inclusion in necessary expenses of designated donation

If a taxpayer makes donations other than that designated below, or makes donations in excess of 10% to 30% of the taxable income (including the amount of donations and excluding carried-over loss), the amount is not treated as a necessary expense (the amount in excess of such a limit may be carried over for 10 years).

- i) Donations to public interest entities, social welfare organizations, and religious organizations
- ii) Donations and scholarships for academic research,
- iii) technical development, and athletic skill development
- iv) Other donations to public entities prescribed by the Presidential Decree

<Reference: Article 34 (3) of Income Tax Law>

The coverage of designated donation has been revised.

- i) In the case when some amount of donation has been made to any religious organization: 10% + (the lesser amount of 20% or the donation to organizations other than religious groups)
- ii) In the case other than i): 30%

The following contributions are always treated as necessary expenses in computing taxable income:

- i) Value of money and goods donated to government agencies and local governmental bodies without compensation

- ii) Contributions for national defense and war relief
  - iii) Value of money and goods donated for the relief of victims of calamities
- (f) Non-inclusion in necessary expenses of entertainment expenses.

If a taxpayer's entertainment expenses exceed the aggregate sum of the following amounts, the amount in excess thereof is not to be counted as a necessary expense (Note: Entertainment expenses are allowed only when supported by recognizable regular invoices such as credit card invoices if the one-time expenditure is over 30,000 won):

- ① An amount calculated by multiplying 12 million won (18 million won in the case of a small or medium-sized enterprise) by the number of months in the respective tax period, divided by 12
- ② An amount calculated by multiplying the total amount of revenue for the business year by the rates listed in the table below

| Revenue amount         | Rate  |
|------------------------|---|
| 10 billion won or less | 0.3%  |
| 10 - 50 billion won    | 30 million won + 0.2% of the excess over 10 billion won   |
| Over 50 billion won    | 110 million won + 0.03% of the excess over 50 billion won |

- (g) In the case of transactions between related persons which result in an unreasonable reduction of the tax burden, the government may adjust the income amount for each year of said taxpayer, regardless of activities or calculation of the taxpayer.

(1) Depreciation

Depreciation cost is calculated as necessary expenses in computing income, and is determined in accordance with the useful life of fixed assets.

- (a) Methods of calculating depreciation



Depreciation of fixed assets is calculated according to the following methods:

- i) Fixed percentage method or straight-line method for tangible fixed assets (only the straight-line method may be used for buildings, but either method may be chosen for machinery and equipment)
  - ii) Straight-line method used for intangible fixed assets
  - iii) Unit of production method or straight line method for mining rights: Under the unit of production method, the actual output extracted in a tax year is compared to the estimated total amount to have been extracted, and the ratio applies to the book value of the mineral rights to determine the size of the depreciation deduction allowed (Note: the Korean language uses one word to describe "depreciation," "amortization," and "depletion").
  - iv) Unit of production method, fixed percentage method, or straight line method for tangible fixed assets used in mining
- (b) Acquisition value of fixed assets
- i) In the case of fixed assets purchased, it is the price quoted at the time of purchase (including registration tax, acquisition tax, and other incidental costs, but not Value Added Tax).
  - ii) In the case of fixed assets acquired by means of one's own construction, fabrication, etc., it is the aggregate costs of raw materials, labor, freight, loading and unloading cost, insurance premiums, fees, public imposts (including registration tax and acquisition tax), installation expenses, and other incidental costs.
  - iii) In the case of fixed assets other than those referred to in i) and ii), it is the normal price quoted at the time of acquisition.
- (c) Useful life and depreciation rate

Refer to the chapter covering the corporation tax law.

- (d) Residual value

The residual value of a fixed asset is zero, but becomes 5% of the acquisition value in the case of depreciation when using the fixed percentage method. This amount is claimed as an expense in the final year of depreciation.

- (e) Revenue expenditures and capital expenditures
  - i) Repairing expenses disbursed by a taxpayer either to restore his assets to their original state or to maintain their efficiency are regarded as revenue expenditures.
  - ii) Repairing expenditures spent either to extend the useful life or to increase the actual value of fixed assets are regarded as capital expenditures.

(2) Accounting for inventory

- (a) A taxpayer may select one of the following methods of inventory accounting. The accounting method utilized for filing the tax return shall be reported by the due date for the year in which the business is begun.
  - i) Cost method
  - ii) Lower of the cost or the market method
- (b) If the cost method applies, one of the following conventions must be used.
  - i) Specific identification method
  - ii) First-in, first-out ("FIFO") method
  - iii) Last-in, first-out ("LIFO") method
  - iv) Weighted average cost method
  - v) Moving average cost method
  - vi) Cost of sales rebate method
- (c) Different accounting methods may apply to the various assets by category and place of business, in accordance with the following classes of assets.
  - i) Products and merchandise
  - ii) Semi-finished goods and work in process
  - iii) Raw materials
  - iv) Goods in stock
- (d) In any of the following cases, the head of a tax office may value inventory assets according to the FIFO method (weighted average cost method in the

case of securities, specific identification method in the case of real estate held for sale), provided, that in case i) or case ii), if the value by the reported valuation method is larger than the value by the First-in, First-out (FIFO) method, it shall be governed by the reported valuation method:

- i) A taxpayer fails to report his method of accounting for inventory within the time required.
- ii) A taxpayer accounts for inventory using a method other than that reported.
- iii) A taxpayer changes the accounting method used for inventory without filing a report of such change.

#### **d. Exemptions and Deductions Related to Global Income**

There are five exemptions or deductions related to global income.

##### **(1) Basic Exemptions**

Residents with global income are entitled to annually deduct an amount equivalent to 1.5 million won multiplied by the number of persons in the taxpayer's family, as determined below.

- (a) A resident taxpayer
- (b) A spouse with annual income of not more than 1 million won (in case where a spouse has wage and salary income only, a spouse with total wage and salary of not more than 5 million won)
- (c) Dependents with annual income of not more than 1 million won living in the same household with the taxpayer (in case where dependents have wage and salary income only, dependents with total wage and salary of not more than 5 million won)

\* A dependent is a lineal ascendant aged sixty or older, a lineal descendent of the resident aged twenty or less (there is no age restriction for a disabled person), a sibling aged under twenty or over sixty, and all other members of the household supported by the resident.

## (2) Additional Deductions

A resident eligible for basic exemption and who belongs to any of the following classes may also deduct 1 million won (b: 2 million won, c: 500,000 won) per year from his/her global income:

- (a) A person who is 70 years or older
- (b) The disabled, as prescribed by the Presidential Decree
- (c) A female head of family with dependents or with a spouse (a person whose global income amount is not more than 30 million won)
- (d) A single parent with lineal descendants or adopted children who are eligible for basic exemption\*

\*Overlapping deductions for (c) and (d) are not allowed. If a resident belongs to both of the classes, he/she shall be deemed to belong to class (d) only.

## (3) Special Deductions

Wage and salary income earners may deduct an amount equal to the sum of the following from their income of wage, salary, etc. during the taxable year.

- (a) The amount of national pension contributions, medical insurance premiums, and employment insurance premiums paid
- (b) 40% of deposits of an account earmarked for purchasing a house, which is held by a person who does not own a house during the year concerned or a person who, at the time of opening such account, owns only one house that is smaller than 85 square meters in size and whose government-evaluated price is 300 million won or less
- (c) 40% of repayments of loans including interest accrued thereon borrowed for the purpose of the lease of a house of an appropriate size by a person owning no house who is subscribed to a qualifying savings program for home ownership up to three million won per year.
- (d) Interest income
  - i) Interest of up to eighteen million won a year of a mortgage loan with the duration of 15 years or longer in the case interest corresponding to 70% or more of the loan is paid as fixed rate and 70% or more of the loan is amortized without deferment

- ii) Interest of up to fifteen million won a year of a mortgage loan with the duration of 15 years or longer in the case that interest corresponding to 70% or more of the loan is paid as fixed-rate or 70% or more of the loan is amortized without deferment
  - iii) Interest of up to three million won a year of a mortgage loan with the duration of 10 years or longer in the case that interest corresponding to 70% or more of the loan is paid as fixed-rate or 70% or more of the loan is amortized without deferment
  - iv) Interest of up to five million won a year of all the other long term mortgage loan
- (e) Wage and salary income earners are allowed income deduction equivalent to 15% of credit card expenditure and 30% of debit card and cash receipt expenditure exceeding 25% of total salaries and wages. The ceiling for the annual deduction is as follows:
- i) In case where the total salaries and wages do not exceed KRW 70 million, 3 million won or 20% of the total salaries and wages, whichever is less;
  - ii) In case where the total salaries and wages amount to more than KRW 70 million and not more than KRW 120 million, KRW 2.5 million (for the taxable year that ends on or before Dec. 31, 2017, KRW 3 million);
  - iii) In case where the total salaries and wages exceed KRW 120 million, KRW 2 million.

However, for expenditures spent for traditional markets and public transportation, the allowed deduction is equivalent to 40% of the expenditure, and the ceiling is raised by an additional 1 million won for each. The deduction allowed for expenditures for books and performances is equivalent to 30% and the deduction ceiling is raised by 1 million won (confined to persons with 70 million won or less in gross pay, applicable to expenditures made after July, 2018)

- (f) Loans for house, savings deposits for housing subscription, investment in employee stock ownership associations or in associations for investment in start-ups, and credit/debit card and cash receipt expenditure are allowed income deduction with a ceiling at 25 million won in total.

**e. Scope of Persons Eligible for Personal Exemptions and Determination of Eligibility**

Persons eligible for spousal exemption, dependent exemption, or exemption for disabled or aged persons must be (i) a spouse and/or unmarried lineal descendant and (ii) family members who are listed on the registration card of the resident actually living at the domicile or residence. A person who has temporarily left the taxpayer's domicile or residence for reasons of schooling, medical treatment, business, or work may still be entitled to an exemption. The determination of eligibility shall be made based on the existing conditions at the closing date of the tax period concerned.

**4. Tax Rates and Credits**

**a. Tax Rates**

(1) The amount of income tax on global income is calculated by applying increasing marginal tax rates to respective tax base, and may be determined by using the following table.

(2) Table of basic tax rates

| <b>Tax base of global income</b> | <b>Tax rate</b>   |
|----------------------------------|---|
| 12 million won or less           | 6% of tax base  |
| 12 – 46 million won              | 0.72 million won + 15% of the excess over 12 million won  |
| 46 – 88 million won              | 5.82 million won + 24% of excess over 46 million won      |
| 88 – 150 million won             | 15.9 million won + 35% of the excess over 88 million won  |
| 150 – 300 million won            | 37.6 million won + 38% of the excess over 150 million won |
| 300 – 500 million won            | 94.6million won + 40% of the excess over 300 million won  |

|                     |  |
|---------------------|--|
| 500 – 1 billion won | 174.6 million won + 42% of the excess over 500 million won |
| Over 1 billion won  | 384.6 million won + 45% of the excess over 1 billion won   |

(3) The tax amount of retirement income is calculated by applying the basic tax rates as indicated in the table above to the tax base for retirement income and dividing the amount by 12, and again multiplying the amount by the number of years of service.

(4) Tax rates on capital gains are as follows:

(a) Real estate and rights thereto (basic tax rates applicable, 60% in the case of the right to buy a house)

\*Property held for at least 2 years

| Capital gains                     | Tax rate   |
|-----------------------------------|--|
| Not more than 12 million won      | 6% of tax base   |
| 12 - 46 million won               | 0.72 million won + 15% of the excess over 12 million won   |
| 46 - 88 million won               | 5.82 million won + 24% of the excess over 46 million won   |
| 88 -150million won                | 15.90 million won + 35% of the excess over 88 million won  |
| 150 million won - 300 million won | 37.6 million won + 38% of the excess of 150 million won    |
| 300 million won – 500 million won | 94.6 million won + 40 % of the excess of 300 million won   |
| More than 500 million won         | 174. 6 million won + 42 % of the excess of 500 million won |
| More than 1 billion won           | 384. 6 million won + 45 % of the excess of 1 billion won   |

\* Property held for at least 1 year and less than 2 years: 40% (60% in case of a house, the residential right of an association member and the right to buy a house)

(Basic tax rate in cases of a house and the residential right of an association member)

\*Property held for less than 1 year: 50% (70% in cases of a house and the residential right of an association member and the right to buy a house)

- i) As for the incomes from the transfer of property, the basic tax rate above applies. Provided, that basic tax rate plus 10% is applied to the properties located in the speculative areas.
- ii) Land used for non- business or non-residential purposes:
- iii) As for the incomes from the transfer of property by Dec. 31, 2015, the basic tax rate above applies. Provided, that basic tax rate plus 10% is applied to the properties located in the speculative areas.
- iv) Unregistered transferred property: 70% applies.

(b) Stocks

| <b>Capital gains</b>  | <b>Tax rate</b> |
|---|-----------------|
| i) Shares of non-small and medium sized company which are held by large shareholders for less than one year       | 30 %            |
| ii) Shares of small and medium sized company (excluding transfer by large shareholders of SMEs)                   | 10 %            |
| iii) Shares other than 1) and 2)<br>20% for the tax base of 300million won and under, 25% for over 300million won | 20 %/<br>25%    |

(5) Foreign employees and executives may elect to apply the rate of 19% on their salaries (various non-taxation/exemption schemes are not applied).

**b. Tax Credit**

(1) Tax credit for dividend income



Where dividend income of a resident received from a domestic corporation is included in global income, the amount calculated as below is deducted from the global income tax amount.

- (a) 11/100 of the dividend income is added to the amount of dividend actually received by the shareholder.
- (b) This figure is used in calculating the individual income tax amount of the shareholder.
- (c) Thereafter, the amount (11/100 of the dividend income) added to the amount of dividend calculated in (a) above, is credited against the individual income tax amount calculated in (b) above.

#### (2) Foreign tax credit

Where a resident has paid or is to pay income tax in a foreign country, the lesser of the foreign tax amount paid/payable or the foreign tax credit limit is deducted from the amount of Korean income tax accrued. This limit is an amount equivalent to that of the income tax owed without the application of this credit, multiplied by the ratio of foreign source income accrued to total taxable income. The calculation of such limit is made by reference to foreign source income received from each foreign jurisdiction.

\* If the foreign tax amount paid or payable exceeds this limit, the excess portion may be carried forward to the next 5 tax years.

\* Before the tax code revision in 2014, taxpayers were allowed to opt between the country-by-country limit calculation method explained above and the method of aggregating all foreign source income received from all foreign jurisdictions. Through the 2014 tax change, however, only the country-by-country method is now available, with the other option having been abolished.

#### (3) Tax credit for casualty loss

When a resident loses 20% or more of the total value of his business assets from one or more disasters, an amount equal to the tax due without application of this credit times the ratio of the value of the lost assets over the total value of assets owned prior to a disaster is subtracted from the amount of tax due in the year of the disaster(s) (limited to the value of loss caused by casualty).

#### (4) Special tax credit for wage and salary income

The credit amount available for wage and salary income earners shall be calculated as the following table shows:

| Calculated tax amount   | Credit amount  |
|-------------------------|--|
| 1.3 million won or less | 55% of global tax amount                             |
| Over 1.3 million won    | 715,000 won + 30% of the excess over 1.3 million won |

\*Ceiling on credit amount is shown in the table below:

| Total wage and salary income | Ceiling on credit amount   |
|------------------------------|--|
| 33 million won or less       | 740,000 won  |
| 70 million won or less       | The greater of 660,000 won and 740,000 won - [(total wage and salary income - 33 million won) × 8/1,000] |
| Over 70 million won          | The greater of 500,000 won and 660,000 won - [(total wage and salary income - 70 million won) × 50%]     |

(5) Child tax credit

- (a) Where a resident with global income has children (including adoptees and children under foster care) from the age of 7 who are eligible for the basic deduction, he/she receives annual tax credit of 150,000 won for having a child, 300,000 won for having two children, and 300,000 won plus 300,000 won per an excess child over two in case of having three or more children.
- (b) Where a resident with global income gives birth to or adopts children, he/she receives annual tax credit equivalent to:
- i) 300,000 won for the first child born or adopted,
  - ii) 500,000 won for the second child born or adopted,
  - iii) 700,000 won for the third or subsequent child born or adopted

(6) Credit for pension account contributions

A resident with global income who paid contributions to a pension account may deduct the amount equal to 12% of the contributions paid from his/her global income tax amount, only up to 4 million won in case where the contributions paid to a pension savings account exceed 4 million won per year, and only up to 7 million won in case where the sum of contributions paid to a pension savings account amounting to no more than 4 million won and contributions paid to a retirement pension account exceed 7 million won per year.

A resident with global income not exceeding 40 million won or a resident earning only wages and salaries not exceeding 55 million won may deduct the amount equal to 15% of the contributions paid from his/her global or wage and salary income tax amount subject to the same ceiling as above.

(7) Special tax credit

(a) Only applicable to residents with wage and salary income

15% of the medical and educational expenses (in the case of the treatment cost for infertility of married couple, 20%), 12% of the insurance premiums (for the disabled, 15%) and 10% of the monthly rent payment are deducted as tax credit.

- i) Medical expenses incurred exceeding 3% of wage and salary income, up to 7 million won: the deduction ceiling does not apply to expenses paid for the infertility treatment as well as the rehabilitation of taxpayers themselves, disabled dependents and senior citizens aged 65 or over.
- ii) Domestically incurred educational expenses of an employed taxpayer including the expense incurred in association with expenses paid by the taxpayer for his spouse or lineal descendants eligible for Basic Exemptions. While the educational expenses incurred for the taxpayer himself (including expense for graduate school) is deductible in full, that for his/her spouse, lineal descendants, adopted children or foster children is deductible with the following ceilings: 3 million won annually per children for expenses for kindergarten, nursery school and sports facilities which preschoolers use for lesson purpose, 3 million won annually per student for elementary, junior and high school expenses including school meals and after-class fees, and 9 million won annually per person for college education expenses.

Education expenses incurred overseas for the taxpayer himself may be deducted in full as well. Educational expenses incurred overseas by spouse or lineal descendants are eligible for deduction, subject to the following limits (annually, per student): 3 million won for kindergarten, 3 million won for elementary, junior, and high schools, and 9 million won for college.

Special education cost for the disabled: No ceiling

iii) Insurance premiums paid, up to 1 million won; additionally, insurance premiums of insurance exclusively offered for disabled persons, up to 1 million won

iv) Monthly rents paid by a person who owns no house and earns 70 million won or less during the tax period concerned, up to 7.5 million won per year

(b) Credit for donation

15% of the amount of donation (in case of the donation exceeding 10 million won, 30% of the excess over 10 million won) is deducted. Provided, that in case of statutory donation, the full amount is deductible, and in case of donation to religious organizations, the ceiling is 10% of the income\* plus the lesser amount between 20% of the income and the amount of donation to designated organizations other than religious organizations. In the case of the donation to designated organizations other than religious organizations, the ceiling amounts to 30% of the income.

\*The income herein means the amount of global income from which the amount of statutory donation is subtracted (hereinafter refers to “the income” in this paragraph).

(8) Standard Credits

Alternatively, a taxpayer may elect to choose an annual standard credit of 70,000 won\*(120,000 won for business owners meeting certain requirements\* and 130,000 won for wage and salary earners), if they fail to claim deductions and credits in question.

\*Only if he or she accrues only global income without any wages or salaries earned.

**c. Special Case in Calculation of Tax Amount**

When the amount of interest or dividend income included in the global income tax of a resident exceeds the amount set forth in the guideline as to global taxation (20 million won per year), the amount of tax on global income shall be the larger of the two shown below.

- (1) The sum of the following:
  - (a) The amount of global income tax calculated on the sum of:
    - i) The amount by which interest and dividend income exceeds 20 million won
    - ii) The amount of global income other than interest or dividend income
  - (b) Six million won, the amount of tax calculated by applying a withholding tax rate of 14% to 20 million won
- (2) The sum of the following:
  - (a) 14% of the total interest and dividend income
  - (b) The amount of tax computed on global income other than interest or dividend income

## **5. Tax Returns and Payment**

### **a. General**

Under the 1994 tax reform, the individual income tax assessment system was converted into a self-assessment system under which each taxpayer is required to file a return and pay the proper amount of tax by the due date as prescribed by the individual income tax law.

### **b. Interim Prepayment for Global Income**

- (1) A resident with global income is subject to interim prepayment of global income tax for interim prepayment periods (from January 1 through June 30) in the amount equivalent to half of the global income tax amount paid or payable in the preceding year, by the end of November.
- (2) The "income tax paid or payable in the preceding year" is the aggregate of the tax amount payable for interim prepayment in the preceding year, the tax amount payable upon filing of the return, together with penalty taxes owed.

### **c. Pre-filing for sales profits from lands of real estate dealers**

- (1) A real estate dealer is required to file a return to report any taxable profit from the sale of land or buildings within two months from the end of the month that

the profit was incurred (mandatory pre-filing). The real estate dealer should include the payment with the filed return, calculated by applying the basic tax rates on capital gains to the taxable profit as income tax from a real estate dealing business. Penalty is imposed on any real estate dealers whose pre-filing is not made.

\*Penalties for non-compliant filing (10% of under-reported amount, 20% of unreported amount)

\*Penalties for non-compliant tax payment (3% + 0.025% per day)

- (2) The taxable profit is calculated by deducting necessary expenses incidental to the sale of land or buildings.

#### **d. Pre-filing for gains from the alienation of real estate**

- (1) A resident who transfers assets subject to the capital gains tax is required to file a return and pay the tax due on the capital gains within two months from the last day of the month of transfer (mandatory pre-filing).

- (2) The amount of tax payable at the time of the interim return is calculated by applying the basic tax rates on capital gains to the profit derived from the transfer. Penalty is imposed on any transferors whose pre-filing is not made.

\*Penalties for non-compliant filing (10% of under-reported amount, 20% of unreported amount)

\*Penalties for non-compliant tax payment (9.125% per annum)

#### **e. Final Returns and Payment**

- (1) Return on tax base

A resident who has global income, retirement income or capital gains, during the applicable taxable period is required to file a return on the respective tax base between May 1 and May 31 of the following year.

- (2) Documentation

Tax returns should include the following documents:

- (a) Supporting documents in order to be eligible for personal exemptions and special deductions
- (b) Documents in which gross receipts and necessary expenses are recorded together with statements of income amount in the form prescribed by the Ministerial Decrees

- (c) For those having rental income or business income, a balance sheet, a profit and loss statement, a compound trial balance, and a reconciliation format, or a summary of income statement
- (d) Particulars of tax free reserves

(3) Residents not required to submit a final return

The following residents are not required to submit final returns. However, a resident who has Class B wage and salary income and/or retirement income is not excluded hereunder:

- (a) A resident who has only:
  - i) Wage and salary income
  - ii) Retirement income
  - iii) Public pension income
  - iv) Business income prescribed by Presidential Decree of Income Tax Act, from which a withholding tax is deducted pursuant to Article 127 therein
  - v) A religious person's income as other income subject to withholding under Article 127(1)6
  - vi) A combination of both i) and ii) or both ii) and iii), both ii) and iv) or both ii) and v)
- (b) A resident with only capital gains and one who has filed a preliminary return thereon
- (c) A resident with only:
  - i) Interest income subject to separate taxation
  - ii) Dividend income subject to separate taxation
  - iii) Separate taxation on pension income
  - iv) Other income subject to separate taxation
- (d) A resident with only the types of income enumerated in (a), (b), and (c)

#### (4) Payment of tax

- (a) A resident who has submitted a tax return shall pay any amount remaining after deducting the following items from the amount calculated as tax due on global income, retirement income, or capital gains for each taxable period.
  - i) Interim prepayment of tax
  - ii) Estimated taxes paid by real estate dealers, or with respect to capital gains
  - iii) Additional taxes paid as a result of occasional assessments of tax
  - iv) Taxes withheld at source
  - v) Taxes paid through a taxpayers association
- (b) A resident whose taxable amount exceeds 10 million won may pay the tax accrued in installments within 2 months from the closing date of the payment period.
  - i) In the case of tax due less than 20 million won, the amount more than 10 million won can be paid in the extended period of payment.
  - ii) In the case of tax due of more than 20 million won, 50% or less of the amount of tax can be paid in the extended period of payment.

#### **f. Taxpayer Associations**

##### (1) Organization

Any person with wage and salary income falling under any item of article 127 (4), and any business entity prescribed by Presidential Decree (e.g. distributors of agricultural, livestock, and marine products and stall keepers) may organize taxpayer associations through which they may pay taxes.

##### (2) Obligation to collect tax

A taxpayer association shall collect income tax from the members each month.

##### (3) Payment of tax

Income tax for each month collected by a taxpayer association will be paid to



the government by the 10th day of the following month.

(4) Tax credit for payment of tax by taxpayer association: 5%

(5) Penalty tax for non-payment of tax by taxpayer association: specified rate in Article 47-5(1) of Framework Act on National Taxes

#### **g. Taxpayer Address**

A domicile or a residence of a taxpayer is the tax address for the purpose of income tax.

### **6. Tax Assessment and Collection**

#### **a. Determination of Tax Base and Tax Amount**

- (1) The income tax is to be self-assessed and filed by the taxpayer.
- (2) The government will correct the tax base and the tax amount if there are any omissions or errors in the return filed, or if the taxpayer has not submitted the payment statements or the aggregate summary of accounting statements in whole or in part.
- (3) In the cases where the government determines or corrects the tax base and the tax amount payable by a taxpayer, the tax base and the tax amount must be determined or corrected according to the law based on the final return and the attachments thereto, or by a field audit.
- (4) Determination must be completed within a year from the filing due date, except that the Commissioner allows an extension of time for special investigation, or approves a late determination based on extenuating circumstances.
- (5) Occasional assessment

To prevent income tax evasion, the government may, monthly or occasionally, determine a tax base prior to the filing or determination period in the following circumstances:

- (a) When a taxpayer frequently moves his business place, domicile, or residence without reporting such movements to the government
- (b) When a taxpayer has closed down or has suspended his business operation due to poor business conditions or other reasons
- (c) When a taxpayer is located in an area deemed to be a place of frequent moves for place of business, residence, or domicile

#### **b. Minimum Taxable Floor**

If the amount of income tax payable is less than the following amount, income tax will not be assessed.

(1) Withholding tax (excluding tax of interest income): 1,000 won

(2) Interim prepayment tax: 300,000 won

**c. Notice on Tax Base and Tax Payable**

If the government determines or adjusts a tax base or a tax amount, the government shall notify the concerned resident of the tax rates and/or any other necessary matter in writing.

**d. Collection of Tax**

(1) If a taxpayer does not pay the full tax amount for the year in question, the government will endeavor to collect the unpaid tax amount within three months after the due date of payment.

(2) When the income tax amount paid by the taxpayer is less than that determined by the government, the unpaid amount of tax will be collected.

**7. Withholding Tax**

**a. Tax Withholding Obligation**

A person paying interest, dividends, business income prescribed by the Presidential Decree, wage and salary income, pension income, retirement income, or other income is required to withhold income tax due thereon at the time of such payment, and to pay it to the government by the tenth day of the following month.

However, a businessman who has less than twenty employees on average at the end of every month of the preceding year may pay taxes withheld to the government by the tenth day of the following month each half-year, after obtaining the approval of the head of the tax office concerned.

Withholding rates are as follows:

(1) Interest income

(a) Interest on a long-term bond with a redemption period of 10 years: 30%

(b) Interest from non-commercial loans: 25%

(c) Other interest: 14%

- (2) Dividend income: 14%
- (3) Business income from personal services and medical or health services which are exempt from VAT: 3% of total revenue (in the case of pharmacies, 3% × (total income from drug dispensing service less cost of medicine))
- (4) Wage and salary
- (a) Tax rates: the basic tax rates applicable to global income
  - (b) Simplified tax table: If wage or salary is paid monthly, the tax amount to be withheld is calculated by the "Simplified Tax Table" attached to the end of the Income Tax Law.
  - (c) Year-end adjustment: A person subject to tax withholding must calculate the total annual tax amount in February of the following year or at the time of the last payment of income in the year (i.e., when the income earner completes employment during the year) and collect or refund the difference between the tax amount payable and the total annual tax amount. This amount is calculated by applying the basic tax rates and the tax amount withheld, which is explained in the "Simplified Tax Table."
  - (d) Application for personal exemption: Class A wage and salary income earners who are entitled to personal exemptions must submit an application for personal exemptions, together with documentary evidence in support thereof, to the withholding agent before receiving wage and salary income for February of the following year.
  - (e) Daily wage: Tax is withheld from the wages of day laborers at a rate of 6 %.
- (5) Pension income
- (a) National pension, government employee pension: basic tax rates
  - (b) Retirement pension, private pension (private pension cancellation due to unavoidable circumstances shall be subject to taxation on pension income)

| Category     |                      | Tax rate |
|--------------|----------------------|----------|
| Age          | younger than 70      | 5%       |
|              | 70 – younger than 80 | 4%       |
|              | 80 or older          | 3%       |
| Life Annuity |                      | 4%       |

\* If a resident belongs to two or more categories, the lowest applicable rate is applied.

(c) With respect to the pension income to be received as retirement income under Article 20-3 (1) 2 (a), 70% of the withholding tax rate for the non-pension payments

(6) Retirement income: basic tax rates

(7) Other income:

(a) Where the amount of income (such as lottery prize, money received by participating in acts using slot machines, etc.) exceeds 30 million won, 30% of such excess

(b) Private pension cancellation: 15%

(c) Other income: 20%

## **8. Penalty Tax**

In the case of failure to comply with obligations by the tax laws, penalties are imposed as follows:

### **a. Penalty Tax for Failure to File Returns**

When a taxpayer fails to accurately report his or her tax amount due, he or she is subject to the penalties described below.

(1) Penalty tax on unreporting

(a) In case of failure to file a return which involves fraud or other illegal activities, the penalty equal to 40% of the unreported tax amount shall be imposed. But for any person obliged for double entry bookkeeping, the penalty equal to 40% of the unreported tax amount or 0.14% of the gross revenue amount, whichever is greater, is imposed.

(b) In other cases, the penalty equal to 20% of the unreported tax amount shall be imposed. But for any person obliged for double entry bookkeeping, the penalty equal to 20% of the unreported tax amount or 0.07% of the gross revenue amount, whichever is greater, is imposed.

(2) Penalty tax on underreporting

- (a) In case of underreporting which involves fraud or other illegal activities, the penalty equal to 40% of the unreported tax amount shall be imposed. But for any person obliged for double entry bookkeeping, the penalty equal to 40% of the unreported tax amount or 0.14% of the gross revenue amount, whichever is greater, is imposed.
- (b) In other cases, the penalty equal to 10% of the underreported tax amount shall be imposed.

**b. Penalty Tax for Non-Payment or Underpayment of Tax**

When the income tax payable with the final return has not been paid in full, a penalty of 3% of unpaid amount shall be added to the amount of tax due. In addition, a penalty in the amount of 0.025% of the amount unpaid shall be added to the amount of tax due, for each day the amount remains unpaid.

**c. Penalty Tax for Failure to Withhold Tax**

If a person subject to tax withholding (including taxpayers' association under the Income Tax Act) fails to withhold tax at source or fails to pay the government tax withheld within the payment period, the sum of (1) and (2) is levied as penalty: (the sum of (1) and (2) will be imposed with the limit of 50% of unpaid tax liability or the underpaid tax liability)

(1)  $0.025\% \times \text{the amount unpaid} \times \text{number of unpaid days}$

(2) 3% of unpaid tax

**d. Penalty Tax for Failure to Report Withholding Invoices**

If a concerned person fails to submit a payment report within the reporting period or if the reported facts concerning payment are found to be unclear as specified by the Presidential Decree, a penalty in the amount of 1% (0.5% for late submission) of the payment due shall be charged.

**e. Penalty Tax Related to Gathering Relevant Tax Invoices (Article 81-10 of Income Tax Act)**

Where any person obliged for double-entry bookkeeping falls under (a), the amount equivalent to 1% of the value of supply thereof, and (b) or (c), 0.5% of such value shall be aggregated with the calculated tax, and the amount equivalent to 2% of the value of supply shall be aggregated with the calculated tax in cases of (d), provided that a newly-opened business operator, a person not exceeding 48 million won of gross business income in the previous taxable period, an insurance sales person, a door-to-door salesperson and a beverage delivery salesperson are excluded from the penalty tax:

- (a) Where a taxpayer fails to enter all or part of the items prescribed by Presidential Decree on an invoice or falsely enters them (subparagraph 1);
- (b) Where a taxpayer fails to submit the aggregate table of invoices by seller and the aggregate table of invoices by purchaser by February 10 of the year following the taxable period concerned, or fails to enter all or some items to be entered on the aggregate table submitted, or enters them falsely (subparagraph2);
- (c) Where a taxpayer fails to submit the aggregate table of tax invoices by purchaser by February 10 of the year following the taxable period concerned, or omits all or some items to be entered in the aggregate table of tax invoices by purchaser, or enters them falsely (subparagraph3)
- (d) In any of the following cases(subparagraph4):
  - i) Where an invoice is not issued (item (a));
  - ii) Where an invoice is issued when a taxpayer has supplied no goods or services(item (b));
  - iii) Where an invoice is issued when a taxpayer has received no goods or services(item (c));
  - iv) Where an invoice is issued for goods or services supplied in the name of a person, other than the supplier of goods or services(item (d));
  - v) Where an invoice is issued for goods or services received in the name of a person, other than the supplier of goods or services(item (f)).

#### **f. Penalty Tax for Failure to Maintain Adequate Books and Records**

If a taxpayer operating a business fails to maintain proper books and records, such taxpayer will be subject to penalty equal to 20% of the amount of tax due for the tax year involved multiplied by the following rate "R."

R: improperly documented portion of taxable income divided by total taxable income

### **g. Penalty Tax for Failure to Report Details of Place of Business**

In the case where a taxpayer engaged in medical, veterinary, or pharmaceutical service business fails to report detailed information on their place of business such as his/her personal information, revenue amount, and facilities, or underreports revenue amount when reporting such information, there shall be added to the tax due a penalty equal to 0.5% of the amount unreported.

## **9. Bookkeeping, Reporting and Other Obligation**

### **a. Bookkeeping**

A taxpayer conducting a business shall maintain books and records adequate to support the computation of the amount of taxable income. Such books and records shall be of sufficient detail to allow an inspector to understand the relevant facts of all transactions conducted by the business.

In particular, those taxpayers engaged in professional service business (e.g. legal service, medical service, dental care service, veterinary service, etc.) are required to adopt the double-entry system regardless of the size of their income.

### **b. Reporting**

#### **(1) Payment reports**

Persons who pay the following must submit to the government a report by the end of February of the year following the year in which the payments are made.

- (a) Interest
- (b) Dividends
- (c) Amount withheld from a business
- (d) Wages, salaries, and severance pay
- (e) Pension income
- (f) Other amounts representing income to the recipient

(2) Submitting payment reports

Under the system of global taxation of financial income, persons required to withhold tax must supply information regarding the income subject to withholding by the end of February of the year following the year in which the payments were made.

**c. Registration as cash receipt issuer**

Business owners with annual income of 24 million won or more who do transactions directly with consumers (in the case of professional service providers, the income threshold does not apply) are required to register as cash receipt issuer.

**d. Acceptance of credit card and issuance of cash receipt**

At the request of customers, business owners shall accept a credit card or issue a cash receipt, as the case may be. If they turned out to have refused to do so, they are liable to penalty equal to 5% of the transaction amount concerned.

\*High-income professionals including lawyers shall issue cash receipt in the transaction of more than 300,000 won per case even without customers' requests.

**e. Use of business account**

Those who are required to adopt the double-entry system of recording transactions shall open a business account with a bank and use the account, in the case where they make a payment or receive a payment through a financial institution or where they pay or receive personnel expense or rents. When business transactions are designated by the Presidential Decree and their business accounts are difficult to use for the counterparty's reason, they are excluded.

**10. Non-Resident Income Taxation**

**a. General**

- (1) A non-resident is liable to tax on income derived from sources within Korea. Two methods of taxation are applied: global taxation and separate taxation. Global taxation is applied to non-resident taxpayers who have a place of business in Korea or those with income from real estate located in Korea (excluding capital gains from the transfer of land or buildings, to which



schedular taxation is applied). All domestic source income is subject to global taxation, except for severance pay and capital gains, all of which are taxed in the same manner, with some exceptions, as they would be if earned by a resident. Withholding taxation is applied to each domestic item of income of non-residents who do not have a place of business in Korea and do not have income from real estate located in Korea.

- (2) A non-resident's tax address is the domestic business place. In the case of a non-resident who has no domestic business place, its tax address will be the place where such income is derived.

#### **b. Income from Domestic Sources**

- (1) Interest Income: Interest and discount on bonds or securities issued by the national government or local autonomous bodies and other profit from a trust or non-commercial loan as prescribed by the following subparagraph shall be regarded as a domestic source income. However, interest paid on funds borrowed directly by a Korean resident's permanent establishment (PE) in a foreign country or by a Korean corporation for its business outside Korea shall not be considered as domestic source income.
  - (a) Interest paid by the national or local government, a resident, a domestic corporation of Korea, a foreign corporation's PE in Korea, or a non-resident's PE in Korea
  - (b) Interest received from a foreign corporation or a non-resident, where a PE of the concerned party includes the interest paid in computing taxable income as deductible expenses related to its operation
- (2) Dividend income: Distributions of profits or surplus, and advance payment of dividends under the Korean Commercial Code without surplus or cumulative earnings received from a domestic corporation or other business entity
- (3) Real estate income: Income arising from the transfer of a lease, or any other interest from real estate located in Korea, including titles to the real estate, mining rights, mine lease-holding rights, or quarrying rights located in Korea, excluding income subject to capital gains tax

- (4) Income from lease of vessels, aircraft, etc.: Income arising from the lease of vessels, aircraft, registered automobiles or heavy equipment to residents, domestic corporations, or the Korean places of business of non-residents and foreign corporations
- (5) Business income: Income arising from performance of services in the following industries; livestock, forestry, fisheries, mining, quarrying, manufacturing, electricity/gas/water services, construction, communications, real estate dealing, services, and professional services (excluding personal service income)
- (6) Personal service income: an amount receivable as payment for furnishing or having other utilized personal services such as:
- (a) Services provided by actors, musicians, or other public entertainers
  - (b) Services provided by professional athletes
  - (c) Services provided by lawyers, certified public accountants, licensed tax accountants, certified architects, public surveyors, patent lawyers, and others in liberal professions, and
  - (d) Services rendered by persons having expert knowledge or special skills in science, technology, business management, or other fields involving the utilization of such knowledge or skills.
- \*Actual reimbursement of airfare, accommodation fees or meal expense is excluded from personal service income.
- (7) Capital gains: Gains derived from the transfer of land and buildings located in Korea
- (8) Wage and salary income including pension or severance pay: The amount received as payment for labor performed in Korea
- (9) Royalties, rents, or any other consideration of a similar nature receivable for the use of the following assets or technical information within Korea, or for the right to use such assets or technical information, and income arising from the transfer of said assets or technical information

- (a) Copyrights on academic or artistic works (including motion pictures), patent rights, trademark rights, designs, models, drawings, secret formulae or processes, films and tapes for radio and television broadcasting, and any other similar assets or rights
  - (b) Industrial, commercial, or scientific knowledge, experience, or skill
  - (c) Industrial, commercial, or scientific machines, equipment, devices, and fixtures, and such other tools as transport equipment, etc.
- (10) Gains arising from the transfer of investment securities or shares invested in a domestic corporation or other securities issued by a domestic corporation or the domestic business place of a foreign corporation
- (11) Other income:
- (a) Insurance money, compensation money, or compensation for damages received in connection with real estate or other assets located in Korea, or those related to businesses conducted in Korea
  - (b) Money, goods, or other economic benefits received as a prize from contests held in Korea
  - (c) Income from sale of treasure found within Korea
  - (d) Income from the assignment within Korea of rights established by license, permission, or other similar disposition under the Korean law, or from the transfer of property located in Korea at the time of transfer, other than real estate
  - (e) Money or goods received as a prize in a lottery, drawing, or any other contest, including the purse payable to the buyer of a winning ticket for horse racing, cycle racing, motorboat racing, bull fighting and sports betting game
  - (f) Income derived from transferring or renting virtual assets. It also includes the amount calculated by considering the point of withdrawal as that of transfer in the case where a person involved in virtual assets business withdraws the concerned assets under his or her custody and management.
  - (g) Income other than those described above, arising from a business operated in Korea or the provision of personal services in Korea; in addition, this subparagraph includes economic benefits received in connection with assets

in Korea (Note that if the amount received from the redemption of bonds issued by the government or banks established under the laws of Korea in a foreign currency exceeds the face value of such bonds in foreign currency, the balance in value shall not be included under this section).

**c. Domestic Business Place**

- (1) If a non-resident has a fixed place of business in Korea of a type described in (a) through (e) below, he or she is deemed to have a domestic place of business.
  - (a) A branch or any other business office
  - (b) A store or any other fixed sales place
  - (c) A workshop, factory, or warehouse
  - (d) A building site, a location of construction, assembly or installation work, or a place for providing supervision of such work, any of which exists for more than 6 months
  - (e) i) A place for providing services through an employee for a period exceeding 6 months in aggregate out of any 12 consecutive months, or ii) a place for providing similar services for 2 years or more through an employee, if not for a period exceeding 6 months in aggregate out of any consecutive 12 months
  - (f) Mines, quarries or any other place of exploration or extraction of other natural resources as well as marine natural resources (including those on the sea-bed or subsoil adjacent to the coast within which the sovereign rights of the Republic of Korea may be exercised, outside its territorial waters, in accordance with the international law).
  
- (2) Where any fixed place falling under the following are used to carry on activities of a preparatory or auxiliary character for the business of a non-resident, such fixed place shall not constitute a domestic place of business:
  - (a) A fixed place used by a non-resident only for the purchase of assets
  - (b) A fixed place used by a non-resident only for storage or custody of assets for non-business purposes
  - (c) A fixed place used by a non-resident solely for advertisement, public relations, collection or furnishing of information, market survey, or other similar activities of a preparatory or auxiliary nature for a business operation

- (d) A fixed place used by a non-resident only for the purpose of having other persons process property of the non-resident; e.g., a foreign person might provide raw materials, title to which remains with the foreign person, into Korea to be assembled or processed into products for sale in the foreign person's home country; this activity would not give rise to a place of business in Korea
- (3) Notwithstanding the fact that the non-resident has no fixed place, a person falling under or corresponding to any of the following:
  - (a) A person who has the right to conclude any of the following contracts for a non-resident in Korea in the name of such non-resident and exercises such right on a regular basis:
    - 1) A contract in the name of the non-resident
    - 2) A contract to transfer assets owned by the non-resident or allow to use assets, the ownership or right of which is held by the non-resident;
    - 3) A contract for provision of services for the non-resident
  - (b) A person who, notwithstanding the fact that he/she does not have any right to conclude a contract in the name of the non-resident, repeatedly conducts a significant role in the course of conclusion of the contract, provided that such non-resident does not change substantial matters in the contract
- (4) Carrying on of business with any of the following persons shall be deemed to have a domestic place of business:
  - (a) A person who regularly takes custody of goods delivered to Korea and delivers them to customers upon receipt of orders;
  - (b) A person, who, as a general commission agent or other agent of an independent status, performs significant part of action in business primarily for a certain non-resident, such as concluding a contract (including acting in the ordinary course of his/her businesses).
  - (c) A person who collects insurance premiums or insures risks located in Korea on behalf of such non-resident

#### **d. Tax Withholding on Non-Residents**

(1) Unless otherwise provided in an applicable tax treaty, persons paying an amount of income from domestic sources to non-residents (excluding capital gains from real estate, wage & salary income or retirement income derived by non-resident individuals which are subject to the same taxation rules as those applicable to each of the three income items derived by resident individuals) not attributable to a domestic business place, shall withhold as income tax at source of the income the applicable amount enumerated below. The tax withheld must be paid to the government by the 10th day of the month following the month in which such tax was withheld.

(a) Income from lease of vessels, aircraft, etc., and business income: 2% of the amount payable

(b) Personal service income: 20% of the amount payable \*

\*Actual reimbursement of airfare, accommodation fees or meal expense is excluded from personal service income. Despite the separate taxation provisions on personal service income, the taxpayer may also elect to include income from the rendering of personal service less such amount reimbursed in domestic-source income when filing his/her income tax return in Korea.

(c) Interest income\*, dividend income, royalty, and other income: 20% of the amount payable

\* Interest derived from bonds issued by the State, local authorities and domestic companies is subject to 14% of withholding tax rate.

(d) Capital gains from the transfer of land or buildings: 10% of the amount payable. However, if the purchase price of the transferred asset can be readily confirmed, the amount of tax withheld at source shall be the lesser of 10% of the amount payable or 20% of the gain on such transfer.

(e) Gains from the transfer of securities or shares: 10% of the amount payable. However, if the purchase price of the securities or shares can be readily confirmed, the amount of tax withheld at source shall be the lesser of 10% of the amount payable or 20% of the gain on such transfer.

If the securities or shares are transferred through an investment trader or investment broker under the Capital Market and Financial Investment Services Act, the trader or broker shall withhold the income tax and pay it to government at the tax office with jurisdiction over the domestic corporation (or the domestic business place of the foreign corporation) that issued the securities or shares.

In the case where the securities or shares are transferred through publicly recognized stock exchanges and the holdings of the non-resident transferor together with his specially-related persons are less than 25% of the total shares issued by or the total investment in a Korean company (the total shares or interests listed or registered on publicly recognized stock exchanges in Korea in the case of shares or interests issued by a foreign company) all the time in the year of such transfer and during the 5 years prior to the year, the capital gains from such transfer are non-taxable.

In the case where the non-resident hold securities or shares through a partnership, whether the non-resident passes the 25% shareholding test or not will be determined based on the partnership's shareholding in the domestic company concerned rather than based on the non-resident's shareholding.

- (f) If a non-resident transfers securities of the same issue with different acquisition costs through a securities company, the company shall compute the acquisition value of the securities sold by using the moving average method.
  - (g) Virtual assets income: 10% of the amount payable. However, if the purchase price of the virtual assets can be readily confirmed, the amount of tax withheld at source shall be the lesser of 10% of the amount payable or 20% of an amount remaining after deducting the acquisition value from gains.
- (2) If a non-resident engages in a construction, installation, assembly project, or performs supervisory services related thereto on a short-term basis in Korea, the Korean resident paying for such services shall withhold income tax at source. However, if such non-resident registers its permanent establishment with the appropriate tax office, the payer will not be required to withhold and pay the tax.
  - (3) If a resident of Korea pays a non-resident who is engaged in the operation of vessels or aircraft in international transportation and who is not deemed to have a place of business in Korea, the resident shall withhold tax on the Korean-source portion of the amount paid.
  - (4) If a person subject to tax withholding fails to withhold and pay tax as required on time, a penalty equivalent to 3 ~ 10% of the amount of tax not paid shall be imposed on that person.

(5) Non-resident individuals deriving in Korea income from lease of vessels or aircraft, business income, personal service income, wage & salary income, retirement income, royalties or capital gains from securities (interest and dividends excluded) or their withholding agent who submitted a wage and tax statement within the statutory deadline may request a reassessment of the tax base and the tax amount within 3 years from the end of the deadline.



## Chapter III: Corporation Tax

### 1. Taxpayer

Companies subject to corporation tax in Korea can be classified into two types: domestic or foreign and for-profit or non-profit. For tax purposes, a company with its head or main office in Korea is deemed to be a domestic company and is liable to tax on its worldwide income. Otherwise, it is considered to be a foreign company, and the tax liabilities of foreign companies are limited to Korean-source income.

#### a. Domestic Corporation

- (1) A corporation with its head or main office or place of effective management in Korea is liable to corporation tax on its worldwide income.
- (2) A for-profit domestic corporation is liable to tax on the following items of income:
  - (a) All items of ordinary business income including income from the transfer of real estate property
  - (b) Liquidation income: income realized upon liquidation of the business due to a cessation of the company as a taxable entity
- (3) For a non-profit domestic corporation, the following items of income are taxable:
  - (a) Income from profit-making businesses under the Korean Standard Industrial Classification
  - (b) Interests
  - (c) Dividends
  - (d) Capital gains from the transfer of stocks, preemptive rights, or shares
  - (e) Capital gains from the transfer of fixed assets not used directly for nonprofit businesses
  - (f) Gains from the transfer of bonds and debentures

### **b. Foreign Corporation**

- (1) When a corporation has its head or main office located in a foreign country, only its income from domestic sources is subject to corporation tax (only if the corporation has no place of effective management in Korea); however, income from the liquidation of such corporation is not taxable.
- (2) For non-profit foreign corporations, no corporation tax is assessed on income other than that from profit making businesses in Korea.

### **c. Rules and Special Cases Determining Liability**

- (1) When a corporation to which the corporate income is legally attributed is different from the corporation to which that income actually belongs, the corporation tax shall be assessed on the latter-mentioned corporation.
- (2) For income attributable to a trust estate, the beneficiary of the trust is subject to corporation tax.

## **2. Place of Tax Payment**

### **a. General**

#### **(1) Domestic Corporation**

Domestic corporations shall pay corporation taxes at the place where the head or main office or the place of effective management of the corporation is located.

#### **(2) Foreign Corporation**

Foreign corporations with permanent establishments (PEs) in Korea shall pay corporate taxes at the location of the PE. If a foreign corporation without a PE in Korea earns income from real estate or mining right transactions, or from the transfer of land or buildings, rights related to real estate or shares, it shall pay the taxes at the respective place where such assets are located. If a foreign corporation maintains two or more PEs in Korea, the place of tax payment shall be the location of its main PE. In such a case, the main PE is the PE earning the largest portion of business revenue in the year when the place of tax payment is initially filed.

#### **b. Designation of Place of Tax Payment**

Notwithstanding the aforementioned provision, the government may designate a different place of tax payment when the registered place of tax payment is determined to be inappropriate. Such a designation may take place in the following cases:

- (1) When the physical location of the head or main office of the corporation is different from its registered address
- (2) When a tax evasion is suspected based on the fact that the location of the head or main office is not where the corporation's main assets are held or its business is conducted
- (3) When a foreign corporation has two or more PEs, and when the place of the main PE is not clearly identifiable or established
- (4) When a foreign corporation without a PE in Korea has two or more assets such as real estate, rights to real estate, mining rights or shares and accrues income therefrom, but does not file its place of tax payment

#### **c. Reporting Change of the Place of Tax Payment**

When there is a change in the place of tax payment, the corporation must report it to the tax office within 15 days from the date of change.

#### **d. Withholding Taxes**

The place of payment of withholding taxes shall be where the head or main office (in the case of an individual or a domestic corporation) or the main PE (in the case of a foreign corporation) of the person responsible for withholding is located. However, if the securities issued by a domestic corporation are transacted between non-residents or foreign corporations outside Korea and capital gains arise from the transaction, the place for payment of the taxes withheld shall be the location of the head or main office of the corporation that issued the securities, notwithstanding the location of the tax withholding agent. Generally, the agent withholding taxes will be the security company when the securities are transacted through the company. In other cases, the seller of the securities may be the withholding agent.

### **3. Taxable and Non-Taxable Income**

#### **a. Taxable Income**

The corporation tax is assessed on the following income:

- (1) Income during each business year, including income from the transfer of real estate
- (2) Liquidation income (non-profit domestic and foreign corporations are exempted)
- (3) Corporate retained earnings that have not properly flown into the household income through increase in wages, and investments (applicable until 2022, in the form of the Special Taxation for Promoting Investment, Co-existence, and Cooperation, to large corporations with an excess of 50 billion won in equity capital and corporations that are members of an enterprise group subject to restrictions on cross-shareholdings)

For the purpose of calculating such retained earnings, taxpayers may choose either method A or B (and changing from method B to A is allowed):

A:  $[\text{income} \times 70\%] - (\text{investment} + \text{employee wage increase} + \text{spending aimed at promoting mutual growth})$

B:  $[\text{income} \times 15\%] - (\text{employee wage increase} + \text{spending aimed at promoting mutual growth})$

#### **b. Non-taxable Income**

Corporation tax is not levied on income derived from property of public welfare trusts; it does not matter whether the application for non-taxation is submitted or not.

### **4. Tax Base**

#### **a. Income during Each Business Year**

The income of a domestic corporation during each business year is the amount remaining after deducting the gross amount of losses from the gross amount of gains in the same business year.

## **b. Calculation of Tax Base**

- (1) The basis for corporation tax on the income of a domestic corporation for each business year shall be the income for each business year remaining after the successive deductions of the following items:
  - (a)
    - i) The amount of deficits that is incurred in business years commencing after Jan.1, 2020 and carried forward for 15 years;
    - ii) The amount of deficits that is incurred in business years commencing between Jan.1, 2009 and Dec.31 2019 and carried forward for 10 years;
    - iii) The amount of deficits that is incurred in business years commencing before Dec. 31, 2008 and carried forward for 5 years;
  - (b) Non-taxable income in accordance with the Corporation Tax Law and other relevant laws;
  - (c) Deductible income in accordance with the Corporation Tax Law and other related laws.
- (2) However, the deductible amount specified in Paragraph (1) shall not exceed the amount of income for each business year. In the case of a corporation in deficit, the said amount of deduction shall not apply.
- (3) Provisions concerning the calculation of taxable amount of income for the purpose of corporation tax shall be applicable in accordance with the actual details of the transactions.

## **c. Business Year for Gains and Losses**

A business year for gains and losses of a domestic corporation is the business year in which closing of accounts of the said gains and losses takes place. Specific dates are shown below:

- (1) Sale of merchandise or products: The date of delivery of said merchandise or products

- (2) Transfer of other assets: The date of receiving consideration, or the earliest date among registration, delivery, or utilization of the assets
- (3) Sale of assets through consignment: The date of sale by the consignee
- (4) Sale or transfer of assets on a long-term installment payment basis: The amount collectible according to the terms of the payment for the business year and the expenses attributable thereto
- (5) Long-term contract concerning construction or manufacturing for one or more business years: The completion percentage of the construction or manufacturing of the items
- (6) Interest, insurance premiums, or installment payments receivable by banking institutes, insurance companies, securities companies, mutual saving and finance companies: the date that the said gains have actually been received
- (7) Losses or gains of revaluation of foreign currency credits and liabilities due to a change in exchange rates: Include or deduct from gross income for the corresponding business year the gains or losses on the translation of foreign currency receivables or payables
- (8) Deemed dividends and distribution:
  - (a) In the case of effacement of stocks, decrease of capital: the date of decision of effacement, or decision thereof by a general stockholders meeting, etc.
  - (b) In the case of transfer of surplus and reserves into capital except for capital reserve and assets revaluation reserve into capital: the date of decision of transfer thereof by the general stockholders meeting, etc.
  - (c) In the case of dissolution of a corporation: The date of final determination of the residual value of assets
  - (d) In the case of merger or consolidation: The date of registration of the merger or consolidation
  - (e) In the case of corporate division: The date of the registration of the division

## 5. Gains

### a. Gains

Gains denote income and profit from transactions that increase the net value of the assets of a corporation except for paid-in capital and other related activities as prescribed in the Corporation Tax Law.

- (1) Income from profit-making businesses excluding sales returns and discounts
- (2) Gains from asset (including treasury stocks) transactions
- (3) Receipts from asset leasing
- (4) Dividends or distributions receivable
  - (a) An amount, in excess of the amount necessary to acquire stocks or investment receivable by investors as a result of effacement of stocks, decrease of capital
  - (b) The value of stocks or investment acquired by transferring surplus or reserves into capital with the following exceptions:
    - i) Transferring paid-in capital over par into capital
    - ii) Transferring surplus from consolidation or merger into capital
    - iii) Transferring gains on retirement of treasury stock (the market value of treasury stock shall not exceed the price paid to acquire the treasury stock) into capital two years after the retirement
    - iv) Transferring asset revaluation reserve into capital
  - (c) An amount exceeding the price paid to acquire stocks or investment receivable by investors through the distribution of residual property caused by the dissolution of a corporation

- (d) An amount exceeding the price paid to acquire stocks or investment of the extinguished corporation due to a merger or consolidation with a newly established or existing corporation
- (e) An amount exceeding the price paid to acquire stocks or investment of the divided corporation due to the division of corporation
- (5) Gains from revaluation of assets
- (6) Value of assets receivable without compensation, excluding any portion used to cover carried-over losses
- (7) Decreased amount of liabilities by exemption or lapse of debts, excluding the portion used to make up for carried-over losses
- (8) An amount of disbursed loss that has been returned
- (9) An amount of reserves set aside with losses and not by means of appropriating profit
- (10) Gains received from related parties as a result of an unreasonable practice of capital transaction
- (11) An amount of tax-free reserves in excess of the prescribed limit under the law
- (12) An amount of non-designated donations and designated donations in excess of the prescribed limit under the law
- (13) An amount of entertainment expenses in excess of the prescribed limit under the law
- (14) Other income which has been, or is to be vested in the corporation

**b. Non-Inclusion of Gains**

Gains enumerated below are not counted as gains for the respective business year in the calculation of income:

- (1) An amount in excess of the face value of stocks issued
- (2) Profits from capital reduction



- (3) Profits from mergers, excluding those from revaluated gains from mergers prescribed by the relevant Presidential Decree
- (4) Profits from division, excluding revaluated gains from corporate division prescribed by the relevant Presidential Decree
- (5) In the case where a company (Company A) creates another company (Company B) and becomes a wholly owned subsidiary of Company B by transferring all of its shares to Company B, any gains from such share transfer
- (6) In the case where one company (Company A) becomes a wholly owned subsidiary of the other company (Company B) based on a contract under which total shares held by shareholders of Company A are transferred to Company B and the shareholders are granted Company A's shares, any gains from such share exchange
- (7) Profits carried over
- (8) Gains from revaluation of assets; Provided, that gains from revaluation of fixed assets under the law (limited to increase amount), inventory assets, securities, foreign assets held by financial institutions, debts and currency forward and swap are excluded.
- (9) An amount of corporation tax or inhabitant tax refundable used for the payment of other tax liabilities
- (10) Interest on the refund of erroneously paid national taxes or local taxes
- (11) The value of assets received without compensation and an amount of liabilities decreased due to exemption or lapse of debts, used for balancing deficits carried-over
- (12) The output tax amount under the Value Added Tax Law

## **6. Avoiding Double Taxation on Dividend Income**

### **a. In the Case of a Holding Company**

Dividend income received by a holding company established in accordance with the Monopoly Regulation and Fair Trade Law from its subsidiaries is not recognized as gains to a certain extent as the following table shows.

| Type of Subsidiary | First dividends since Jan 1, 2019                                   |  |
|--------------------|---|--|
|                    | Proportion of shares of subsidiaries owned by their holding company | Proportion of dividend income deductible against gains |
| Listed Corporation | Above 40%   | 100%   |
|                    | 30% or above to below 40%   | 90%  |
|                    | below 30%   | 80%  |
| Other Corporation  | Above 80%   | 100%   |
|                    | 50% or above to below 80%   | 90%  |
|                    | Below 50%   | 80%  |

**b. In the Case of a Corporation Other Than Holding Companies**

Dividend income received by a corporation other than holding companies from its subsidiaries is not recognized as gains to a certain extent as shown below.

| Type of subsidiary     | Proportion of shares of subsidiaries owned by the corporation | Proportion of dividend income deductible against gains |
|------------------------|---|--|
| Non-listed corporation | 100%  | 100%   |
|                        | 50% or above to below 100%                                    | 50%  |
|                        | Below 50%   | 30%  |
| Listed corporation     | 100%  | 100%   |
|                        | 30% or above to below 100%                                    | 50%  |
|                        | Below 30%   | 30%  |

## 7. Losses

### a. Losses

Losses denote the amount of losses and expenses incurred by transactions that decrease the net assets of the corporation, except for the refund of capital or shares, appropriation of surplus, or what may be prescribed in the Corporation Tax Law.

Losses include the following:

- (1) Purchase value of raw materials and incidental expenses against merchandise or products sold, excluding purchase allowances and eligible purchase discounts
- (2) Book value of transferred assets at the time of transfer
- (3) Salaries and wages
- (4) Repair and maintenance costs of fixed assets
- (5) Depreciation costs of fixed assets
- (6) Rent of assets
- (7) Interest on financial debts
- (8) Insolvent debts (including output VAT which is not collected and which is not eligible for insolvent debt tax credit under the VAT law)
- (9) Losses on revaluation of assets
- (10) Taxes and public imposts
- (11) Fees paid to entrepreneur organizations that are corporations or registered associations
- (12) Exploration expenses in mining businesses including development costs for exploration
- (13) Advertisement and sales promotion expenses
- (14) Losses on transfer of securities and disposition of fixed assets
- (15) Public contributions, designated as donations and entertainment expenses within the prescribed limit
- (16) Tax-free reserves
- (17) Welfare expenses for employees and directors

- (18) Other expenses which have been or are to be vested in the corporation
- (19) Acquisition cost, where the acquisition cost for a work of art displayed normally in an office or hallway for the purpose of adornment, where a lot of people appreciate it is treated as deductible loss (the cost should be limited up to five million won per a work of art)
- (20) School expenses provisionally paid to the bereaved families of board members or employees after their death

**b. Tax Free Reserves**

- (1) Reserves under the following items are counted as losses within the limit described.
  - (a) Reserves for bad debts:
    - Aggregate amount of debts in the year concerned  $\times$  rate (%)
    - Rate: the greater of i) or ii)
      - i) 1%
      - ii) Non-redeemable bad debts in the year concerned/Aggregate amount of debts in the previous year.
  - (b) Liability reserves and emergency reserves prescribed in the Insurance Business Law: up to an amount prescribed in the relevant Presidential Decree
  - (c) Reserves for interest payment to insurance holders set aside by the insurance company: up to an amount approved according to the standard agreed between the Financial Supervisory Commission and the Ministry of Economy and Finance
  - (d) Reserves for nonprofit organizations: Within the scope of the aggregate amount of the following:
    - i) Interest income including distribution of profit arising from securities investment trusts and dividends
    - ii) 50% of the income, excluding interest income and dividends mentioned in i), arising from profit making businesses; the remaining amounts after offsetting actual nonprofit use within 5 years are included as gains.

- (e) Reserves for the write-off of a compensation claim set aside by trust guarantee funds in each business year: Credit guarantee outstanding multiplied by a smaller one between 1% and indemnity receivables accrual rate\* (The remaining amount after offsetting actual losses are included in the gains of the following year)
  - \* Indemnity receivables accrual rate: Indemnity receivables accrued in the business year concerned, divided by credit guarantee outstanding as of the last day of the immediately preceding business year
- (2) The amounts enumerated below are counted as losses in calculating income for the business year:
  - (a) The amount of gains from insurance claims used to acquire the same kinds of fixed assets as the lost fixed assets, or to improve the damaged fixed assets within 2 years after the beginning day of the business year following the business year in which the gains fall
  - (b) The amount of a beneficiary's share of construction costs received by a domestic corporation engaged in the electricity or gas business, etc., used for the acquisition of fixed assets
  - (c) The amount of the national treasury subsidies actually used for acquisition or improvement of fixed assets for business

**c. Non-Inclusion of Losses**

- (1) Losses and expenses enumerated under the following items shall not be counted as losses in the calculation of the income amount of a domestic corporation for each business year.
  - (a) An appropriated surplus which is included in losses and expenses, except for (i) bonus paid out of an entrepreneur's own stocks acquired under the Securities Transaction Tax Law (Article 189-2), (ii) stock option available under the Special Tax Treatment Control Law, and (iii) profit-sharing bonus
  - (b) Discounts on stocks issued below par
  - (c) Corporation tax (including foreign corporation tax amount) or inhabitant tax pro rata income paid or payable in each business year: taxes paid or payable for failure to comply with tax laws (including penalty tax) and an input tax amount in value added tax (excluding any

tax amount where the value added tax is exempt or in other cases prescribed by the relevant Presidential Decree)

- (d) Unpaid amounts of Liquor Tax, Transportation·Energy·Environment Tax, and Individual Consumption Tax on inspected or carried out products not yet sold
- (e) Fines, penalty taxes and expenses for disposition of tax barriers
- (f) Losses from revaluation of assets other than the revaluation set forth in Article 42(3) of the Corporation Tax Law
- (g) Expenses deemed not directly related to a corporation's business
- (h) Bonuses payable by a corporation to its directors in excess of the amount prescribed in the Articles of Corporation Tax Law, determined by a resolution of a stockholders' meeting or a general meeting of company members (including bonuses paid to the directors based on an appropriation of retained earnings)
- (i) Interest as follows:
  - i) Interest on debt incurred specifically from construction of business assets
  - ii) Interest on private loans from unknown sources
  - iii) Interest or an amount of discount on debentures and securities paid to obscure payees not affirmed objectively
- (j) The amount exceeding the limit of the depreciation of fixed assets allocated for each business year of a corporation, set forth in the Corporation Tax Law
- (k) The amount of retirement allowance payable to directors by a corporation in excess of the amount as follows:
  - i) The amount set forth in the articles of incorporation
  - ii) Total amount of (salary received by the retiring officer for one year)1/10 (Length of employment of the officer before retirement) (excluding the deductible expenses)
- (l) The amount exceeding the limit of business expense incurred to an insurance corporation which is set forth in the Presidential Decrees based on its total premium gains during the same year

(m) Expenses related to cars for business use (e.g. depreciation expenses, rental fees, fuel expenses, car insurance premiums, etc.)

i) In the case where a business use only auto insurance is enrolled:  
the amount of expenses which is not incurred for business purpose  
is non-deductible

\*the amount of expenses incurred for business use = expenses related to  
cars for business use x business usage ratio (i.e. mileage travelled for  
business purpose divided by the total mileage)

ii) In the case where a business use only auto insurance is not enrolled:  
the entire amount of expenses is non-deductible

(2) Designated donations

(a) The following donations are counted as losses to the extent of 10% of taxable income and any excess over the ceiling may be carried over for 10 years.

i) Donations to public interest entities, social welfare organizations, and religious organizations

ii) Donations and scholarship for academic research, technical development, and development of athletic skills

iii) An amount disbursed by a non-profit corporation engaged in profit-making businesses for its own non-profit business

iv) Other donations to public entities prescribed by the Presidential Decree

v) Foreign non-profit corporations aimed at supporting overseas Koreans, promoting Korea, and enhancing cooperation between Korea and other countries.

vi) International organizations

(b) The following public contributions are counted as losses to the extent of 50% of taxable income and any excess over the ceiling may be carried over for 10 years:

- i) Contributions to government agencies and local government bodies without compensation
- ii) Contributions for national defense and war relief
- iii) Contributions for the relief of disaster victims
- iv) Contributions to public educational institutions, including Korean schools abroad to be used as funds for facilities, education, scholarship or research
- v) Contributions to public medical institutions to be used as funds for facilities, education, or research
- vi) Contributions to non-profit corporations whose main purposes are to raise and distribute funds necessary for social welfare services
- vii) Contributions to public institutions (excluding public enterprises) or institutions whose foundation is directly based on individual domestic law whose purpose of foundation is to promote public interest, and a third or more than a third of its gross income comes from government subsidies or contributions

(3) Entertainment expenses

Where the entertainment expenses exceed the aggregate sum of the following, the amount in excess thereof is not to be counted as losses.

- (a) An amount calculated by multiplying 12 million won (36 million won for SMEs) and the number of months in the respective business year divided by 12
- (b) An amount calculated by multiplying the amount of gross receipts for a business year with rates listed in the following table (in the case of receipts from transactions between related taxpayers, 10% of the amount calculated by multiplying the receipts with following rates shall be applied)



| Amount of gross receipts        | Rate   |
|---------------------------------|--|
| 10 billion won or less          | 0.3%   |
| Over 10 -50 billion won or less | 30 million won + 0.2% of the excess over 10 billion won    |
| Over 50 billion won             | 110 million won + 0.03 % of the excess over 50 billion won |

(4) Arm's length price on transactions by related parties

Where a domestic corporation unreasonably reduces its tax burden in transactions with related persons, the tax authority may calculate the taxable income using the arm's length price.

**d. Depreciation**

Depreciation is considered as losses in calculating income within the limit of an amount set aside at the depreciation rate according to the serviceable life of the fixed assets when a corporation has counted the depreciation amount of fixed assets in losses.

(1) Methods for calculating depreciation

- (a) Depreciation of fixed assets of corporations is calculated according to the methods enumerated below.
- (b) Buildings and intangible assets: Straight-line method
- (c) Tangible fixed assets (excluding tangible fixed assets used in mining): Fixed percentage method or straight-line method
- (d) Mining rights: Service output method or straight-line method
- (e) Tangible fixed assets used in mining: Service output method, fixed percentage method, or straight-line method
- (f) Research and Development cost: Equally-distributed amount within 20 years after the year when sales or use of merchandise is possible
- (g) Assets which are donated to the nation, local provinces, and designated non-profit corporations after having been used: equally-

distributed amount during the using period of the assets can be counted as loss

(2) Acquisition value of fixed asset

- (a) In the case of fixed assets that have been purchased, it is the price quoted at the time of the purchase (including registration tax, acquisition tax, and other incidental costs).
- (b) In the case of fixed assets acquired by means of one's own construction, fabrication, etc., it is the aggregate of raw material cost, labor cost, freight, loading and unloading cost, insurance dues, fees, public imposts (including registration tax and acquisition tax), installation expenses, and other incidental cost.
- (c) In the case of fixed assets other than those under the preceding categories, it is the normal price quoted at the time of acquisition.

(3) Serviceable life and depreciation rate

- (a) Serviceable life and depreciation rate of fixed assets are calculated according to the guideline for serviceable life of fixed assets prescribed in the Ministerial Decrees whereupon taxpayers may elect the respective serviceable life between 75% and 125% of the guideline, provided that in the case of the fixed assets acquired between the periods of January 1, 2021 and December 31, 2021 (assets invested in for innovative growth, for companies other than SME(s), middle-standing enterprises), serviceable life is electable between 50% and 150% of the guideline
- (b) In the following cases, taxpayers may elect between 50% of the serviceable life and the 100% of serviceable life set forth in the guideline: when a company purchases assets that have been used for equal to or more than 50% of the serviceable life (including assets acquired by merger or split-off).
- (c) In the case of assets acquired by the qualified merger, split-off, or comprehensive alienation of assets, the serviceable life and the depreciation rate may be calculated by either one of the following two methods:
  - i) Calculate allowed depreciation using a predecessor company's depreciation method and service life

- ii) Calculate allowed depreciation using an acquiring company's depreciation method and service life

(4) Residual value

The residual value of a fixed asset is zero; but in the case of depreciation by the fixed percentage method, the residual value is regarded as the amount equivalent to 5% of the acquisition amount which is treated as expense at the final year of depreciation.

(5) Revenue expenditures and capital expenditures

- (a) Maintenance expenses disbursed by a corporation either to restore its assets to their original state or to maintain their efficiency are regarded as revenue expenditures.
- (b) Maintenance expenditures either to extend the serviceable life of fixed assets or to increase their value are regarded as capital expenditures.

(6) Special treatment to companies adopting Korean International Financial Reporting Standards, K-IFRS:

Companies who adopted K-IFRS can adjust their depreciation within the following ceilings;

- (a) Assets acquired before Dec 31, 2013: The amount of depreciation on each asset before introducing K-IFRS
- (b) Assets acquired after Jan 1, 2014: The amount of depreciation on each asset reflecting serviceable life table in corporate tax laws

**e. Valuation of Inventory Assets**

- (1) A corporation may elect one of the following methods of inventory valuation and submit a report on its valuation method by the due date.
  - (a) Cost method
  - (b) Lower of the price estimated by the cost method and the market price estimated by financial accounting standards
- (2) In applying the cost method, one of the following is applicable:

- (a) Individual cost method
  - (b) First-in first-out method
  - (c) Last-in first-out method
  - (d) Weighted average cost method
  - (e) Moving average cost method
  - (f) Cost of sale rebate method
- (3) Different valuation methods may be used for the following different categories and different business places:
- (a) Products and merchandise
  - (b) Semi-finished goods and goods in process
  - (c) Raw materials
  - (d) Goods in stock
- (4) In one of the following cases, the head of the district tax office may value inventory assets according to the first-in first-out method (individual cost method is used in the case of real estate owned for the purpose of sale):
- (a) If a corporation has failed to report its valuation method of inventory assets within the reporting period
  - (b) If a corporation has valued the inventory assets according to an valuation method other than the reported method
  - (c) If a corporation has changed the valuation method without filing a report on the change thereof.
- (5) Valuation of securities
- The valuation of securities shall be made using the cost method. For cost method, the following methods shall be applied for the purpose of valuation of securities.
- (a) Weighted average cost method
  - (b) Moving average cost method

\* Individual cost method may be used for valuation of bonds.

- (6) Inventory appraisal surplus of domestic companies complying with the K-IFRS is excluded from gross income.
  - (a) In the case of domestic companies which reported to change inventory appraisal method from Last-In First-Out to another one in the business year when the companies started to apply the K-IFRS
  - (b) Amount of exclusion from gross income: The appraised amount of beginning inventory in the business year when the K-IFRS begins to be applied minus the appraised amount of ending inventory in the business year immediately before the business year when the K-IFRS starts to be applied
  - (c) Follow-up management of the amount excluded from gross income: Divided inclusion in gross income for 5 years from the first day of the business year following that when the K-IFRS is first applied

**f. Valuation of Foreign Assets and Liabilities**

- (1) The scope of foreign assets and liabilities to be valued
  - (a) Banks: Foreign monetary assets and liabilities + all currency forward and swap
  - (b) Other corporations: Foreign monetary assets and liabilities + currency forward and swap aimed at avoiding exchange risk of foreign monetary assets and liabilities
- (2) Valuation methods
  - (a) Banks: Choose between ① and②②

|   | Foreign monetary assets and liabilities | Currency forward and swap |
|---|---|---------------------------|
| ① | Valuation o                             | Valuation x               |
| ② | Valuation o                             | Valuation o               |

- (b) Non-banks: Choose between ① and②②②

|   | Foreign monetary assets and liabilities | Currency forward and swap |
|---|---|---------------------------|
| ① | Valuation x                             | Valuation x               |
| ② | Valuation o                             | Valuation o               |

## 8. Tax Rates and Credits

### a. Tax Rates

- (1) A business year commencing during the period between January 1, 2010 and December 31, 2011
  - (a) Tax base of not more than 200 million won: 10%
  - (b) Tax base over 200 million won: 20 million won + 22% of the excess over 200 million won
- (2) A business year commencing on or after January 1, 2012
  - (a) Tax base of 200 million won or less: 10%
  - (b) Tax base between 200 million won and 20 billion won: 20%
  - (c) Tax base over 20 billion won: 22%
- (3) A business year commencing on or after January 1, 2018
  - (a) Tax base of 200 million won or less: 10%
  - (b) Tax base between 200 million won and 20 billion won: 20%
  - (c) Tax base between 20 billion won and 300 billion won: 22%
  - (d) Tax base over 300 billion won: 25%
- (4) Where a business year is less than one full year, the tax amount is computed as follows:
 
$$\text{Tax Amount} = (\text{Tax Base} \times 12/\text{NMBY}) \times \text{Tax Rate} \times (\text{NMBY}/12),$$
 where NMBY = number of months of business year
- (5) Businesses that have not spent a certain amount of their corporate retained earnings on investments, wage raises and contributions to funds for collaborative cooperation are subject to an additional corporate tax at a rate of 20%.

## **b. Tax Credits**

### (1) Foreign tax credit

- (a) Where a domestic corporation has paid or is liable to pay foreign corporation tax abroad, the lesser of the foreign tax amount paid/payable or the foreign tax credit limit is deducted from the amount of the corporation tax. This limit is an amount equivalent to that of the corporation tax owed without the application of this credit multiplied by the ratio of income from foreign sources to total taxable income. The calculation of such limit is made by reference to foreign source income received from each foreign jurisdiction.

\* If the foreign tax amount paid or payable exceeds the prescribed creditable limit against the corporation tax payable for the year, the excess portion may be carried forward to the next 5 tax years.

\*Before the tax code revision in 2014, taxpayers were allowed to opt between the country-by-country limit calculation method explained above and the method of aggregating all foreign source income received from all foreign jurisdictions. Through the 2014 tax change, however, only the county-by-country method is now available, with the other option having been abolished.

- (b) The foreign tax paid by a qualifying subsidiary is eligible for foreign tax credit against the dividend income of a parent company. A qualifying subsidiary is one in which a domestic corporation owns 25% or more of its shares for at least 6 consecutive months as of the date of dividend declaration.
- (c) When income from foreign sources earned by a domestic corporation is exempt from tax in a source country, nevertheless, the exempted amount of income will be taken into account in calculating the foreign tax credit to the extent that the relevant tax treaty allows.

### (2) Tax credit for loss caused by disaster

Where a domestic corporation is deemed to have difficulties in paying tax because it has lost 20% or more of the total value of its assets due to a natural disaster, a tax amount equivalent to the ratio of the value of the asset loss to the value of total assets is deducted from corporation tax. The amount of tax credit available is limited to the value of the asset loss caused by disaster.

## **9. Tax Returns and Payment**

### **a. Tax Returns**

#### (1) Due dates for filing a tax return

A corporation tax return must be filed within three months from the last day of the business year.

#### (2) Required documents

- (a) Attached to the tax return shall be a balance sheet, an income statement, a surplus appropriation statement, and other necessary documents
- (b) The calculation form of corporation tax and its accompanied documents in accordance with the Presidential Decree
- (c) In the cases where the necessary materials are not attached to the tax return, it is deemed not to have been filed

### **b. Interim Pre-Payment**

- (1) A domestic corporation of which business year exceeds 6 months is liable to interim tax payment by the end of the second month from the end of the interim period (i.e., 6 fiscal months). The amount of pre-payment is computed as shown below:

$$\text{Tax Amount Payable} = \{\text{TPY} - (\text{a}) - (\text{b}) - (\text{c})\} \times 6 / \text{NMPBY}$$

Where TPY = Tax Amount for Preceding Year, and

NMPBY = Number of Months of Previous Business Year

- (a) Corporation tax exempted or reduced in the business year immediately preceding the current business year
- (b) Withholding tax paid in the business year immediately preceding the current business year
- (c) Taxes paid due to occasional assessments in the business year immediately preceding the current business year



- (2) Any corporation that has no tax payable for the immediately preceding business year (excluding corporations that correspond to Article 51-2, paragraph 1 of the Corporation Tax Law) or one whose tax liability for the previous business year has not been determined by the end of the interim prepayment period shall pay an amount of tax for interim prepayment, calculated by deducting the followings from the deemed corporation tax that corresponds to the interim prepayment period:
  - (a) An aggregate of deductible tax amounts for the interim prepayment period in question
  - (b) An amount of withholding tax paid as corporation tax for the period in question
  - (c) An amount of tax for occasional assessment paid as corporation tax for the period in question.

#### **c. Payment**

- (1) A corporation filing a tax return must pay by the last day of tax return period the amount remaining after deducting the following items from the calculated tax for each business year:
  - (a) An aggregate of tax credit amounts
  - (b) Amount of tax for interim prepayment
  - (c) Amount of tax for occasional assessment
  - (d) Amount of tax withheld at source
- (2) Where the amount of tax payable by a domestic corporation pursuant to the above paragraph exceeds 10 million won, part of the amount of tax payable may be paid in installments within one month (two months in the case of small and medium corporations) from the end of the payment period, in such a manner as prescribed by the relevant Presidential Decree.

### **10. Tax Computation, Adjustments, and Collection**

#### **a. Basic Rule of Determination and Adjustment**

- (1) As a rule, when a domestic corporation fails to file a return, the government determines the tax base and the amount of corporation tax payable on the income of the corporation for each business year.

- (2) Where the government determines or corrects the tax base and tax amount payable of a corporation, the base and tax amount have to be determined based on the business records and other relevant documents maintained by the corporation.

**b. Determination and Adjustment of Tax Base and Tax Due**

- (1) When the tax return that a domestic corporation has filed falls within one of the following categories below, the government may correct its tax base and the tax due.
  - (a) When there are any errors or omissions in the return filed
  - (b) When the company fails to submit payment statements or an aggregate summary of accounting statements or an aggregate summary of tax invoices classified by sale place and purchase place.
- (2) Determination of the tax base and amount by estimation

Where the government is unable to calculate the tax base and tax amount because of a failure to keep sufficient or reliable accounting records, the tax base and amount of corporation tax are determined according to the standard income rate or in line with other corporations in the same line of business.

- (3) Determination by estimation may take place in the following cases:
  - (a) Accounting records required for calculation of the tax liability are insufficient or false
  - (b) The contents of accounting records are explicitly false in consideration of the facilities, number of employees, and the prevailing market prices of raw materials, merchandise, products, or various charges and rates
  - (c) The contents of accounting records are explicitly false in consideration of the quantities of raw materials used, electric power used, and other operating indicators.

**c. Occasional Assessment**

- (1) If tax evasion by a company is suspected, the government may occasionally assess corporation tax. In particular, the occasional tax assessment may take place if:
  - (a) The corporation has moved its head office or its main office without filing a report

- (b) The company's business operation is suspended or is terminated
  - (c) Where there is sufficient reason to determine that the corporation intends to avoid or evade taxes
- (2) The government assesses corporation tax by examining the period from the beginning date of the business year to the date of discovery of circumstances, which led to the occasional assessment.

**d. Notice of Tax Base and Tax Amount**

- (1) Where the government has determined or corrected the tax base and tax amount on the income of a corporation for each business year, it shall notify the statement of tax base and tax amount and other relevant statements to the respective corporations.
- (2) Where the government has determined or corrected the tax base of a corporation whose location is unclear, it shall serve a public notice thereon.

**e. Collection**

- (1) Where a corporation has failed to pay the amount of corporation tax payable for each business year, in full or in part, the government will collect the unpaid corporation tax within two months from the end of the payment period. In the case of unpaid tax for an interim prepayment period, it will collect the unpaid tax amount within two months therefrom.
- (2) Where there are amounts of corporation tax payable as a result of an adjustment or a determination of the tax, the government will collect the tax amount according to the procedures prescribed in the National Tax Collection Law.
- (3) Where a tax withholding agent has failed either to collect the amount of tax due or to pay the amount of tax collected within the payment period, the government will collect from the tax withholding agent, the collectible amount as corporation tax according to the procedures prescribed in the National Tax Collection Law without delay.

## 11. Withholding Tax

A person paying the following income to a domestic corporation is required to withhold corporation tax on the income at the prescribed tax rates at the time of such payment, and pay it to the government by the 10th of the following month.

| Interest Income                           |     | Distribution of Profit from Securities Investment Trusts |
|---|-----|--|
| Interest prescribed by The Income Tax Law | 14% | 14%  |
| Interest from a non-commercial loan       | 25% |  |

\* If a trust fund receives interest income and a discounted amount on debentures or securities, it should be treated as a corporation with respect to tax withholding.

## 12. Penalty Tax

A penalty tax for failure to meet the prescribed obligations is added to the tax due.

### a. Penalty Tax for Failure to Maintain Adequate Books and Records or File Returns

Where a corporation has failed to file returns or where the obligation of bookkeeping has not been met, the penalty tax equal to 20% of the calculated tax amount determined by the government or an amount equal to 0.07% of the amount of gross receipts, whichever is greater, is imposed. However, where failure to file returns is fraudulent, the penalty tax equal to 40% of the calculated tax amount determined by the government or an amount equivalent to 0.14% of the amount of gross receipts, whichever is greater, is imposed. It should be noted that the penalty tax for the failure to maintain books and records does not apply to non-profit corporations.

### b. Penalty Tax for Understatement of Income

When a taxpayer fails to accurately report his tax amount due, he or she is subject to the penalties described below.

- (1) An additional tax amount on general understated return
  - $10\% \times \text{calculated tax amount} \times (\text{underreported tax base}/\text{total tax base})$
- (2) An additional tax amount on unjustly underreported return: a larger amount between (a) and (b)
  - (a)  $40\% \times \text{calculated tax amount} \times (\text{unjustly underreported tax base}/\text{total tax base})$
  - (b)  $0.14\% \times \text{unjustly underreported revenue amount}$
- (3) An additional tax amount on unjustly claimed tax deductions or exemptions
  - $40\% \times \text{unjustly deducted or exempted tax amount}$

**c. Penalty Tax for Non-Payment or Insufficient Payment**

Where the corporation tax has not been paid in full or in part, the penalty tax is an amount equivalent to 0.025% per day of the amount of corporation tax unpaid or left to be paid.

**d. Penalty Tax for Failure to Withhold Tax**

- (1) Where tax withholders have failed to withhold tax at the source or have failed to pay the withheld tax to the government within the payment period, the penalty tax applied is the larger between:
  - (a) An amount that multiplies 0.025% by the number of unpaid days (limited to 10% of unpaid or underpaid tax)
  - (b) An amount equivalent to 3% of unpaid or underpaid tax
- (2) Exceptions are made where the tax withholder is the government, local autonomous bodies.

**e. Penalty Tax for Failure to Receive Verifying Documents**

Where a corporation (except those exempted under the Presidential Decree) is provided with goods or services in connection with the business and does not collect verifying documents required, the corporation is subject to penalty tax equivalent to 2% of the uncollected amount surcharged on corporate income tax, except as otherwise provided in the article. Even when the taxable amount is zero, the penalty tax is still to be paid.

**f. Penalty Tax for Failure to Submit the List of Shareholders, etc.**

Where a corporation that is supposed to submit the list of its shareholders, etc. has failed to submit it or omitted all or a part of the list, or where the list is unclear, the penalty tax equivalent to 0.5% of the face value of the shares or the amount of investment is imposed. This penalty tax is collected even if there is no calculated tax amount.

**g. Penalty Tax for Failure to File a Stock Transfer Status Sheet**

If a corporation fails to file a stock transfer status sheet by the due date, or if it is filed by the corporation with incorrect information or omissions of required information, a penalty of 1% of the total par value of the stocks not reported shall be imposed. In the case where the corporation files the sheet within 1 month after the due date, the penalty amount will be reduced by 50%.

**h. Penalty Tax for Failure to Meet Reporting Obligation**

Where a corporation has failed to submit a payment statement or where the details of transactions submitted by the company are found to be incorrect or unclear, an amount equivalent to 1% of the amount of the transactions in the reports not submitted or incorrect or unclear is assessed as penalty tax. In the case where the corporation submits the statement within 3 months after the due date, the penalty amount will be reduced by 50%.

**i. Penalty Tax for Unfaithful Account Statement**

In the case a corporation falls under one of the following cases, penalty tax equivalent to 0.5% of supply price [1% for the case (1) and 2% for the case (4) (1% for the sub-item (a) where account statements other than electronic account statements are received)] shall be imposed. In these cases, penalty tax is collected even if there is no calculated tax amount. Exception can be made to the situation that was specified above in the subparagraph (e). Penalty Tax for Failure to Receive Verifying Documents or where penalty tax is imposed in accordance with the provisions under Article 60 of the Value-Added Tax Act:

- (1) In the case that the whole or part of what should be specified in the account statement is not or differently mentioned
- (2) In the case the sum table of account statements by purchasing and selling partners was not submitted by February 10 of the following year, or in the case the whole or part of what should be specified in the sum table is not or differently mentioned (excluding the cases where item (4) is applied)

- (3) In the case the sum table of account statements by purchasing partner was not submitted by February 10 of the following year, or the whole or part of what should be specified in the sum table is not or differently mentioned (excluding the cases where item (4) is applied)
- (4) One of the following cases:
  - (a) In the case the suppliers of goods or services did not issue electronic account statements
  - (b) In the case a corporation issued electronic account statements without supplying goods or services
  - (c) In the case a corporation had electronic account statements issued without being supplied with goods or services
  - (d) In the case after supplying goods or services, a corporation issued electronic account statements in the name of another corporation that does not actually supply goods or services
  - (e) In the case after being supplied with goods or services, a corporation had electronic account statements issued in the name of another corporation that does not actually supply goods or services

### **13. Bookkeeping**

Corporations liable to tax payment shall keep account books by double entry bookkeeping method and shall prepare and keep important documents verifying the account books. Non-profit corporations have the same duty in the case where they run a profit-making business set forth in the Corporation Tax Law.

### **14. Taxation of Liquidation Income**

#### **a. Tax Base and Tax Amount**

##### (1) Calculation of tax base

The tax base of corporate income on the liquidation income of a domestic corporation is the amount of liquidation income.

- (a) Liquidation income from termination of business
  - i) For the dissolution of a domestic corporation, the amount of liquidation income is the amount remaining after the deduction of the aggregate of paid-in capital or investment and surplus as of the date of dissolution from the value of residual assets of the said corporation after the dissolution.

- ii) The value of residual assets is the amount remaining after deduction of total liabilities from total assets.
- (b) In calculating liquidation income, refundable corporation tax is added to the total amount of capital, and the carried-over deficit is offset against the total amount of capital.
- (c) In calculating liquidation income, the provisions regarding calculation of income of a domestic corporation during each business year are also applicable *mutatis mutandis* except where otherwise provided thereof.

(2) Calculation of taxable amount

Corporation tax on the liquidation income of a domestic corporation is the amount calculated by applying the tax rates (10%, 20%, and 22% and 25%) to the income of the domestic corporation for each business year.

**b. Tax Returns and Payment**

(1) Tax returns

(a) Report on Liquidation Income

- i) A domestic corporation in liquidation due to dissolution shall file a return thereon within three months from the end of the month to which the determination date of the value of the residual assets belongs.
- ii) In filing a return, the balance sheet of the dissolved corporation and other necessary papers shall be attached thereto.

(b) Interim report on liquidation income

In the cases where residual assets of a dissolved corporation are distributed to shareholders before the value of the residual assets are not determined or where the value of residual assets are not determined until the end of the month to which one year after the registration date of dissolution belongs, the corporation in question shall file an interim tax return within one month.

(2) Payment of tax

- (a) A domestic corporation liable to file a return on liquidation income shall pay the government, within the reporting period, an amount of corporation tax on the liquidation income.



- (b) Where a domestic corporation which is liable to file an interim report on liquidation income has residual assets that exceed the total amount of its capital as of the date of dissolution, it shall pay the government, within the reporting period, an amount of corporation tax on the excess amount.

### **c. Determination, Adjustment and Collection**

#### (1) Determination and Adjustment of tax base and tax amount

- (a) Where a domestic corporation has failed to file a tax return by the end of the reporting period, the government shall determine the tax base and corporation tax due on the liquidation income.
- (b) If the contents of the tax return appear to the government to be unreasonable, the government shall correct the tax base and corporation tax due on the liquidation income.
- (c) Where the government has found any omissions or errors in the tax base and tax amount after the determination or an adjustment thereof, it shall immediately re-adjust the tax base and tax amount thereon.

#### (2) Notice

When the government has determined or corrected the tax base and tax amount, it shall serve a notice thereon to the concerned corporation or its liquidators.

#### (3) Collection

- (a) Where a domestic corporation has failed to pay all or part of the corporation taxes payable upon liquidation, the government shall collect the unpaid corporation tax in accordance with the National Tax Collection Law.
- (b) Where there are amounts of corporation tax payable due to adjustment or determination by the government, the government shall collect the outstanding corporation tax.
- (c) With respect to liquidation income, penalty taxes on income of a domestic corporation for each business year are applied *mutatis mutandis*.

## **15. Consolidated Tax Return System**

### **a. Definition**

Consolidated tax return system is aimed to impose corporation tax on the aggregate income of a parent and a subsidiary corporation by deeming them as a tax unit according to their economic substances in the case where the parent corporation and the subsidiary corporation are combined economically.

### **b. Applicable objects**

(1) A domestic corporation and another domestic corporation controlled completely by a relevant domestic corporation; a corporation subject to a consolidated parent corporation may have the consolidated tax return system applied to it excluding the following corporations:

- (a) Nonprofit domestic corporations (including a corporation subject to a consolidated subsidiary corporation)
- (b) Corporations in the process of liquidation due to dissolution
- (c) Corporations applied to dividend-paid deduction system
- (d) Corporations being controlled completely by other corporations except nonprofit domestic corporations (including a corporation subject to a consolidated subsidiary corporation)
- (e) Corporations to which the special taxation for partnership firms applies
- (f) Corporations to which the tonnage system applies

(2) The term “complete control” means cases that a domestic corporation possesses the whole (excluding stocks held by the employee stock ownership association, stocks acquired by workers through the employee stock ownership association, the stocks within 5/100 of the total number of outstanding stocks as stocks issued following the exercise of stock options) of total number of outstanding stocks of the other domestic corporation (including non-voting stocks), and including cases where the sum of stocks, etc. of another domestic corporation possessed by the domestic corporation and its complete subsidiary corporation is the whole of total number of outstanding stocks of such another domestic corporation.

### **c. Request for application and approval**

(1) The domestic corporation that intends to have the consolidated tax return system applied shall submit a request for the application of consolidated tax return system to the head of the competent tax office through the head

of tax office having jurisdiction over the place of tax payment by one day before the beginning date of the first consolidated business year.

- (2) The head of the competent tax office shall notify in writing whether to approve it by three months after the beginning day of the first consolidated business year, and where he has failed to notify it by such date, it shall be deemed to have been approved.

**d. Calculation of consolidated tax base**

- (1) The tax base of income for each consolidated business year (consolidated tax base) shall be an amount gained by subtracting the amount in the following subparagraphs one after another within the extent of income for each consolidated business year.
  - (a) Amount that is deficit (including losses of disposition of assets that accrued before consolidated tax return system was applied to a consolidated corporation) in a consolidated business year that began within ten years before the beginning date of each consolidated business year, which was not deducted when tax base for each consolidated business year (including business year) was calculated afterwards. Deduction is allowed to the extent of 60% of individually reverted amount of consolidated income (this cap shall not apply to SMEs and corporations prescribed by the Presidential Decree) Provided, that the following losses from disposition of assets shall be deducted up to the following applicable amounts:
    - i) The deficits of disposition of assets accrued before the consolidated tax return system was applied to the consolidated corporation: Income amount reverted to the relevant consolidated corporation among the incomes for each consolidated business year (individually reverted amount of consolidated income).
    - ii) The deficits of disposition of assets of the merged corporation in the cases where a consolidated parent corporation merges with another domestic corporation: Income accruing from the business succeeded to from the merged corporation among the individually reverted amounts of consolidated income of the consolidated parent corporation
    - iii) Where a consolidated parent corporation succeeds to the assets of a divided corporation following division and merger, the amount that

reverts to the business succeeded by the merged and divided corporation among the deficits of disposition of assets succeeded to from the merged and divided corporation: Income accruing from the business succeeded to from the merged and divided corporation among the individually reverted amounts of consolidated income of the consolidated parent corporation

- iv) Where a consolidated parent corporation qualifiedly merges (including a qualified division and merger conducted to a consolidated parent corporation as a counterpart corporation to the division and merger) with another domestic corporation (limited to a corporation other than a consolidated corporation as at the registration date of a merger),

losses from disposition of the assets succeeded to from a merged corporation incurred in the consolidated business year that ends within five years from the registration date of the merger: the amount of income accruing from the business succeeded to from the merged corporation (including the divided corporation) among the individually reverted amount of consolidated income of the consolidated parent corporation;

losses from disposition of the assets held by the consolidated parent and subsidiary corporation before the merger incurred in the consolidated business year that ends within five years from the registration date of the merger: the amount of income accruing from the business of the parent corporation conducted before the merger and the individually reverted amount of consolidated income of the relevant subsidiary corporation

- v) Where the consolidated tax return system is applied to a domestic corporation after it has become a wholly controlled subsidiary (excluding where it has become a wholly controlled subsidiary from the registration date of establishment) of another domestic corporation,

losses from disposition of the assets (limited to assets acquired by a consolidated parent or subsidiary corporation before the consolidated tax return system is applied) incurred within five years from the start date of the business year following the business year in which it has become a wholly controlled subsidiary: the individually reverted amount of consolidated income of the relevant parent corporation or the relevant wholly controlled subsidiary

- (b) Total amount of non-taxable income of each consolidated corporation
- (c) Total amount of income deduction amount of each consolidated corporation

**e. Income for Each Consolidated Business Year**

- (1) The income for each consolidated business year shall be an amount obtained by adding the income or deficit calculated in the order of the following subparagraphs by respective consolidated corporation:
  - (a) Calculation of income for each business year by consolidated corporation: Calculation of income or deficit for each business year of each consolidated corporation
  - (b) Exclusion of consolidation adjustment item by consolidated corporation:  
Amount equivalent to the received dividend amount of each consolidated corporation that has not been included in gross income shall be included in gross income, and an amount equivalent to the donation and entertainment expense that have not been included in deductible expenses shall be included in deductible expenses.
  - (c) Adjustment of profit and loss from transaction between consolidated corporations
    - i) Amount equivalent to dividend amount received by a consolidated corporation from another consolidated corporation shall not be included in gross income, an amount equivalent to entertainment expense paid to another consolidated corporation and an amount equivalent to the allowance for bad debt established on a claim to another consolidated corporation shall not be included in deductible expenses.
    - ii) Profit and loss derived from the transfer of fixed assets to other consolidated corporation shall not be included in gross income or shall not be included in deductible expenses, and where the transfer profit or loss deferred asset is depreciated, is transferred, bad debt has incurred to the transfer profit or loss deferred asset, or has vanished, the transfer profit or loss deferred asset shall be included in the earnings or loss of the transferor corporation for the business year to which the date for payment of transferred claim arrives.

- (d) Allocation of consolidation adjustment item by consolidated corporation: After calculating the amount of consolidation adjustment item (received dividend, donation, entertainment expense) that is not included in gross income or deductible expenses by deeming the consolidated group as one domestic corporation, the allocation of amount reverted to each consolidated corporation shall not be included in gross income or deductible expenses by consolidated corporation.
- (2) Deficits under 15. a. (1) (a) iv) and v) shall not be added to the income of another consolidated corporation when adding the incomes or deficits of each consolidated corporation.

**f. Consolidated Calculated Tax Amount**

- (1) The corporation tax on income for each consolidated business year (consolidated calculated tax amount) shall be an amount obtained by applying the corporation tax rate to the consolidated tax base.
- (2) Where a consolidated corporation has transferred land, etc. (including cases where the taxation of the profits from the alienation of the relevant lands is deferred as profit and loss from transaction between consolidated corporations), an amount obtained by adding the corporation tax on the income from the transfer of land, etc. shall be the consolidated calculated tax amount.
- (3) The amount reverted to each consolidated corporation among consolidated calculated tax amount (calculated tax amount by consolidated corporation) is calculated by multiplying tax rate of ② to the amount of ①, and where a consolidated corporation has transferred land, an amount obtained by adding the corporation tax on the income from the transfer of land shall be the consolidated calculated tax amount.
  - (a) Individually reverted amount of consolidated tax base: The amount deducted the following amounts from the individually reverted amount of consolidated income.
    - i) Amount of deficit deducted from individually reverted amount of consolidated income when tax base for each consolidated business year is calculated (where being deducted from individually reverted amount of consolidated income of 2 or more consolidated corporations, the amount is divided proportionate to individually reverted amount of each consolidated income)

- ii) Non-taxable income and income deduction amount of the relevant consolidated corporation
- (b) Consolidated tax rate: The rate of the consolidated calculated tax amount for consolidated tax base (excluding the corporation tax on income derived from the alienation of lands etc.)

**g. Return and Payment**

- (1) A consolidated parent corporation shall file a return of tax base and tax amount of corporation tax on the income for the relevant consolidated business year to the chief of the district tax office having jurisdiction over the place of tax payment within four months from the end of the month to which the end of each consolidated business year belongs, and pay an amount obtained by adding the total amount of additional tax calculated by each consolidated corporation to the amount subtracting the following tax rates from the consolidated calculated tax to the district tax office having jurisdiction over the place of tax payment.
  - (a) Reduced or exempted tax amount for the relevant consolidated business year
  - (b) Consolidated interim prepayment tax amount for the relevant consolidated business year
  - (c) Total of withheld tax amounts of each consolidated corporation for the relevant consolidated business year
- (2) A consolidated subsidiary corporation shall pay to the consolidated parent corporation an amount obtained by adding an amount calculated by each consolidated corporation to the amount obtained by subtracting the amounts in the following subparagraphs to the calculated tax amount by consolidated corporation, by the deadline of return and payment of the above consolidated tax base and etc.
  - (a) Reduced or exempted tax amount of the relevant corporation for the relevant consolidated business year
  - (b) Interim prepayment tax amount by consolidated corporation for the relevant consolidated business year
  - (c) Withheld tax amount of the relevant corporation for the relevant consolidated business year

## 16. Taxation of Foreign Corporation

### a. General

- (1) A foreign corporation is liable to corporation tax only on income derived from sources within Korea. However, no corporation tax is levied on the liquidation income of a foreign corporation.

Corporation tax on income from domestic sources by a foreign corporation is assessed and collected in the same manner, with some exceptions, as that applied to a domestic corporation. With respect to the income from domestic sources by a foreign corporation which has no domestic permanent establishment, the full amount of corporation tax withheld thereon at source is payable to the government.

- (2) Some provisions of tax laws with respect to calculation of taxable income and tax amount, assessment, collection tax withholding, and reporting for domestic corporations are applicable *mutatis mutandis* to foreign corporations having a domestic place of business. However, any special provisions regarding foreign corporations are preferentially applied thereto.

### b. Tax Base

- (1) Foreign corporation with a domestic permanent establishment

The corporation tax base on income for each business year of a foreign corporation with a permanent establishment, or real estate income in Korea is the amount of income for each business year remaining after the successive deduction of the following items from the gross income from domestic sources.

- (a) An amount of deficits (limited to carried-over deficits incurred in Korea) carried-over from the business year which began within 10 years before the beginning day of each business year, which has not been deducted in the calculation of income amounts or tax base in each subsequent business year\* Deduction is allowed to the extent of 80% of the income for the relevant business year.
- (b) Non-taxable income under the Corporation Tax Law and other laws
- (c) Income from the navigation abroad of vessels or aircraft, provided that the foreign country in which the head office or main office of the said foreign corporation is located grants the same tax exemption on vessels or aircraft operated by Korean corporations



- (2) Foreign corporation without a domestic permanent establishment
  - (a) Items of income derived by a foreign corporation without a permanent establishment in Korea shall be subject to tax separately, i.e., the income items are not to be aggregated.
  - (b) Even in the case of a foreign corporation without a domestic permanent establishment, income from the navigation of vessels or aircraft abroad is, on a reciprocal basis, deducted from the income from domestic sources.

### **c. Income from Domestic Sources**

#### (1) Interest income

Interest and discount received on bonds or securities (excluding interest on deposits and profits received from a trust abroad) and other profit from a trust or non-commercial loan as prescribed by the following sub-paragraphs shall be regarded as domestic source income. However, interest paid on funds borrowed directly by a Korean resident's permanent establishment (PE) in a foreign country or a Korean corporation for its business outside Korea shall not be counted as a part of the domestic source income.

- (a) Interest paid by a state or local government, a resident, a domestic corporation of Korea, a foreign corporation's PE in Korea, or a non-resident's PE in Korea
- (b) Interest received from a foreign corporation or a non-resident, of whom a PE in Korea included the amount of such interest paid of its deductible expenses as necessary expenses effectively related to its operation

#### (2) Dividend income

Dividends of profits, distribution of surplus, and interest received from domestic corporations or non-corporate entities

#### (3) Real estate income

Real estate income arising from the transfer, lease, and any other operation involving real estate in Korea (including rights to the real estate) and mining rights, mining lease-holding rights or quarrying rights acquired in Korea, except income subject to capital gains tax

(4) Income from lease of vessels, aircraft

Income arising from the lease of vessels, aircraft, registered automobiles, or heavy equipment to residents, domestic corporations, or the business places in Korea of non-residents and foreign corporations

(5) Business income

Income from agriculture, forestry, fisheries, mining, manufacturing, electricity, gas, steam and water services, construction, wholesale and retail, transportation and communications, banking and insurance, real estate dealing or professional services (excluding personal service income)

(6) Personal service income

An amount receivable as payment\* for furnishing or having others utilize personal services as follows:

- (a) Services provided by movie and drama actors, musicians, or other public entertainers
- (b) Services provided by professional athletes
- (c) Services provided by lawyers, certified public accountants, architects, surveyors, patent lawyers, or other similar professionals
- (d) Services provided by persons having expertise or special skills in science and technology, business management and other similar fields, with the utilization of such expertise or skills

\*Actual reimbursement of airfare, accommodation fees or meal expense is excluded from personal service income.

(7) Capital gains

Gains on transfer of land, buildings, and other assets located in Korea

(8) Royalties

Royalties, rent, or any other compensation of similar nature receivable as a

consideration for the use of the following assets or technical expertise within Korea, or for the right to use such expertise, and income from the transfer of said assets or technical know-how

- (a) Copyright on academic or artistic works (including films), patent rights, trademarks rights, designs, models, drawings, secret formulae or processes, films and tapes for radio and television broadcasting, and any other similar assets or rights
- (b) Information or know-how on industrial, commercial or scientific knowledge or experience

(9) Gains from the alienation of securities or shares

Gains from the transfer of shares or comparable interests derived by a foreign corporation without a permanent establishment in Korea are subject to withholding tax, provided that such shares or interests are transferred through publicly recognized stock exchanges and the holdings of the non-resident transferor together with his specially-related persons are less than 25% of the total shares issued by or the total investment in a Korean company (the total shares or interests listed or registered on publicly recognized stock exchanges in Korea in the case of shares or interests issued by a foreign company) all the time in the year of such transfer and during the 5 years prior to the year.

(10) Other Income

- (a) Insurance money, compensation money, or compensation for damages received in connection with real estate or other assets located in Korea, or those related to businesses conducted in Korea
- (b) Money or the value of other goods to compensate damage exceeding actual damages payment which forms the terms of original contract as indemnification received due to the breach or termination of a contract providing for property rights
- (c) Income from receipt of assets located in Korea
- (d) Money, goods, or other economic benefits received as a prize from contests held in Korea
- (e) Income from sale of treasure found within Korea

- (f) Income from the assignment within Korea of rights established by license, permission, or other similar disposition under the Korean law, or from the transfer of property located in Korea at the time of transfer, other than real estate
- (g) Money or goods received as a prize in a lottery, drawing, or any other contest, including the purse payable to the buyer of a winning ticket for horse racing, cycle racing, motorboat racing, bull fighting and sports betting game
- (h) Income derived from transferring or renting virtual assets. It also includes the amount calculated by considering the point of withdrawal as that of transfer in the case where a person involved in virtual assets business withdraws the concerned assets under his or her custody and management.
- (i) Income other than those described above, arising from a business operated in Korea or the provision of personal services in Korea; in addition, this subparagraph includes economic benefits received in connection with assets in Korea (Note that if the amount received from the redemption of bonds issued by the government or banks established under the laws of Korea in a foreign currency exceeds the face value of such bonds in foreign currency, the balance in value shall not be included under this section.)

#### **d. Calculation of Income from Domestic Sources**

##### (1) Foreign corporation with a domestic business place

Total amount of gross income from domestic sources for each business year of a foreign corporation which has a domestic business place or real estate income is calculated by applying the provisions regarding the calculation of the tax base of a domestic corporation *mutatis mutandis*. In particular:

- (a) Losses are limited to those which are rationally allocated to an amount of income and a value of assets related to income from domestic sources.
- (b) Reserves set aside for retirement allowances are limited to those for employees of the respective foreign corporation employed in Korea for the businesses operated by the foreign corporation in Korea, serving permanently at a domestic business place or at the location of its real estate.
- (c) Corporation tax, inhabitant tax, fines, minor fines, non-penal fines, penalty tax, disposition fees for tax in arrears, and public imposts which are not counted in losses, including those imposed under foreign laws and regulations.

- (d) Fixed assets eligible for depreciation are limited to fixed assets for the business owned in Korea, among fixed assets of the respective foreign corporation.
  - (e) If a domestic business place ceased to exist in a business year before receiving all amounts due on a deferred payment or installment arrangement, that portion of the sales or disposition price not yet received, and related costs, shall be included in gains and losses, respectively, in said year.
  - (f) Deferred assets are limited to those of the foreign corporation in question, which are vested either in the business operated in Korea or in the assets owned in Korea.
  - (g) Where a foreign corporation with a domestic business place operates an international transportation business by vessels or aircraft, income from that in Korea is calculated based on revenue and expenses incurred in connection with passengers or cargo originating from Korea, the value of fixed assets for business in Korea, and any other sufficient factors for determining the degree of contributions by its domestic business to the income from the transportation business in question.
  - (h) In granting a tax credit to a foreign corporation for loss from disaster, the total value of assets for business is the total amount said corporation has in Korea.
- (2) Foreign corporation without a domestic permanent establishment

Income from domestic sources of a foreign corporation without a domestic business place in Korea for each business year is computed separately by the type of income arising from sources in Korea.

#### **e. Domestic Permanent Establishment**

- (1) Where a foreign corporation in Korea has a fixed place as described in the following, it is deemed to have a domestic business place:
  - (a) Branch, sub-branch, office, or any other business office
  - (b) Store and any other fixed sales place
  - (c) Workshop, factory, or warehouse
  - (d) A building site, a location of construction, assembly or installation work, or a place for providing supervision service for such work which exists for more than 6 months
  - (e) A place (i) where services are provided through any employer for a

period exceeding 6 months in aggregate out of consecutive 12 months, or (ii) where similar services are provided through any employer continually or repeatedly throughout more than 2 years, if not for a period exceeding 6 months in aggregate out of consecutive 12 months

- (f) Mines, quarries or any other place of exploration or extraction of other natural resources as well as marine natural resources (including those on the seabed or subsoil adjacent to the coast within which the sovereign rights of the Republic of Korea may be exercised, outside its territorial waters, in accordance with the international law)

(2) A fixed place for a domestic business does not include the places such as:

- (a) Fixed place used by a foreign corporation only for the purchase of assets
- (b) Fixed place used by a foreign corporation only for the storage or custody of non-salable property
- (c) Fixed place used by a foreign corporation for advertisement, public relations, collection and furnishing of information, market surveys and other activities of a preparatory or auxiliary nature for business performance
- (d) Fixed place used by a foreign corporation only for the purpose of having others process its assets

(3) Notwithstanding the fact that a foreign company has no fixed place, a person falling under or corresponding to any of the following:

(a) A person who has the right to conclude any of the following contracts for a non-resident in Korea in the name of such non-resident and exercises such right on a regular basis:

- 1) A contract in the name of the foreign company;
- 2) A contract to transfer assets owned by the foreign company or allow to use assets whose ownership or right is held by such foreign company;
- 3) A contract for provision of services for the foreign company.

(b) A person who, notwithstanding the fact that he/she does not have any right to conclude a contract in the name of the foreign company, conducts a significant role insofar as such company does not change significant matters in the contract.

(4) Carrying on of business with any person of the following is deemed to have a domestic permanent establishment in

- (a) Persons who constantly store assets of foreign corporations and customarily distribute or deliver them on orders from customers
- (b) A broker, general commission agent or other independent agent who conducts an important part of sales such as the closing of a contract on behalf of a foreign corporation, as long as the business is entirely or almost entirely devoted to that foreign corporation
- (c) Persons who collect insurance premiums (including reinsurance) on behalf of a foreign corporation
- (d) Foreign corporations indicated above include major stockholders of the foreign corporation in question, other corporations of which the foreign corporation in question is a major stockholder, and other persons having special relations with the foreign corporation in question.

**f. Tax Rates, Returns, Payment, Determination, Adjustment, and Collection**

(1) Tax rates

Corporation tax on the income for each business year of a foreign corporation which has a domestic business place or real estate income is calculated by applying the same tax rates as those applicable for a domestic corporation on the tax base.

(2) Return, payment, determination, adjustment and collection

- (a) With respect to tax return filing, tax payment, determination, adjustment, and collection of corporation tax on the income for each business year of a foreign corporation with a domestic business place or real estate income, the provisions for a domestic corporation are also applicable *mutatis mutandis*.
- (b) Where a foreign corporation that is required to file a return on its tax base is unable to do so within the return period due to the following reasons, it may extend the return period with the approval from the government.
  - i) Disasters and any other unavoidable occurrences
  - ii) Failure to finalize the settlement of accounts at the head or mainoffice
- (c) The tax payment location of a foreign corporation with a domestic business is the place of its business or that of relevant real estate within Korea.

- (3) Foreign companies deriving in Korea income from lease of vessels or aircraft, business income, personal service income, wage & salary income, retirement income, royalties or capital gains from securities (interest and dividends excluded) or their withholding agent who submitted a wage and tax statement within the statutory deadline may request a reassessment of the tax base and the tax amount within 3 years from the end of the deadline.

#### **g. Tax Withholding on Foreign Corporation**

##### (1) Withholding Rate

- (a) A person paying an amount of income from domestic sources to foreign corporations (except foreign corporations having capital gains from real estate which is subject to the same taxation rule as that applicable to capital gains from real estate derived by domestic company) not attributed to a domestic business place shall withhold as corporation tax at the source of income an amount enumerated as follows upon making the payment, and pay it to the government by the tenth day of the following month.
  - i) Business income and income from lease of vessels, aircraft, etc.: 2% of the amount payable
  - ii) Personal service income: 20% of the amount payable
    - \* Actual reimbursement of airfare, accommodation fees or meal expense is excluded from personal service income. Despite the separate taxation provisions on personal service income, the taxpayer may also elect to include income from the rendering of personal service less such amount reimbursed in domestic-source income when filing his/her income tax return in Korea.
  - iii) Interest income\*, dividend income, royalties, and other income: 20% of the amount payable
    - \* Interest derived from bonds issued by the State, local authorities and domestic companies is subject to 14% of withholding tax rate.
  - iv) Gains from the transfer of securities or shares: 10% of the amount payable (However, where the acquisition value of securities or shares can be confirmed, the amount of withholding tax at source is 10% of the amount payable or 20% of an amount remaining after



deducting the acquisition value from gains, whichever is less.)

- v) Gains from virtual assets: 10% of the amount payable (However, where the acquisition value of virtual assets can be confirmed, the amount of withholding tax at source is 10% of the amount payable or 20% of an amount remaining after deducting the acquisition value from gains, whichever is less.)

## (2) Tax Withholding by Agent

- (a) In the case where securities or shares are transferred to a foreign corporation through a securities company, the securities company shall withhold the corporation tax and pay it to the government at the residence place of the domestic corporation (or the domestic business place of the foreign corporation) which issued the securities or shares.
- (b) If a foreign corporation transfers securities of the same issue whose acquisition costs are different, a securities company shall compute the acquisition value of the securities sold by using the moving average method.
- (c) Any person paying an amount of income from domestic sources (limited to business income, personal service income, interest income, and royalties) with a foreign loan to any foreign corporation having no domestic business place shall withhold tax at the source at the time the income is paid under the payment terms of the contract, even in the case where he or she does not directly pay such an amount of income under the terms of the contract in question.
- (d) Where an agency in Korea of foreign corporation, operating vessels or aircraft in services abroad that do not come under a domestic business place, pays the foreign corporation income from the service of vessels or aircraft navigating overseas, it shall withhold tax on the income earned by the corporation from domestic sources.
- (e) Where a person subject to tax withholding pays the corporation tax withheld at source after the lapse of the payment period, has not paid the tax within the period or has not withheld the tax at source, he or she shall pay a penalty tax amounting to 10% of the tax amount unpaid or not withheld.

- (f) Where a foreign corporation engages in construction, installation, assembly projects, or supervisory services in Korea, it is subject to withholding tax for income arising from these enterprises if the foreign corporation is not registered with the appropriate tax authority.

#### **h. Branch Tax**

If the tax treaty between Korea and the country of which the foreign corporation is a resident allows imposition of branch profit tax, the tax is imposed on the adjusted taxable income\* of the Korean branch of the foreign corporation. This branch profit tax is levied in addition to the regular corporation tax under the Corporation Tax Law.

Branch profit tax will be imposed at 20% (or at a reduced rate ranging from 5% to 10% as provided in the treaty) on the adjusted taxable income of the foreign corporation (effective from the taxable year that begins on January 1, 1996).

\* The adjusted taxable income for each business year is calculated as follows:

Earnings of the business year concerned less (corporation tax due & resident tax due thereon + portion of the earnings acknowledged to be reinvested in branch operations (i.e. increase in Korean net equity)\* + non-deductible amount under the Law for the Coordination of International Tax Affairs)

\*Net equity is calculated by subtracting Korean liabilities from Korean assets. There is an increase in net equity, if the net equity as of the close of the business year concerned exceeds the net equity as of the start of that business year. There is a decrease in net equity, if the net equity as of the start of the business year exceeds the net equity as of the close of that business year. In the case of the termination of business of the Korean branch, the net equity as of the close of the business year is deemed to be zero.

## **Chapter IV: Inheritance & Gift Tax**

### **1. Inheritance Tax**

#### **a. Taxpayer**

- (1) A person or a non-profit organization that acquires property through inheritance or bequest is liable to the Inheritance Tax.
- (2) A for-profit company is exempt from the Inheritance Tax, when the property bequested is subject to corporate income tax.

#### **b. Tax Base**

- (1) From the date of the commencement of the inheritance, the followings are deemed as taxable inheritance or bequest:
  - (a) Inherited or bequeathed property
  - (b) Bequeathed property transferred upon the death of the bequeathed
  - (c) Property donated to the inheritor within ten years of the date of the commencement of the inheritance
  - (d) Property donated to persons other than the inheritor within five years of the date of the commencement of the inheritance
- (2) The inheritance tax covers:
  - (a) All property inherited or bequeathed by a resident
  - (b) All property in Korea inherited or bequeathed by a non-resident

#### **c. Deductions**

- (1) Public imposts and taxes imposed on the decedent
- (2) Funeral expenses between 5 million and 10 million won (with an additional deduction up to 5 million won if usage fees of burial chamber arise)
- (3) Debts left by the decedent for which the inheritor is able to prove that he or she is to assume the responsibility to pay upon the commencement of the inheritance

#### **d. Itemized Deductions**

(1) Basic deduction

General: 200 million won

(2) Additional deductions

(a) Inherited family businesses: an amount equivalent to the value of property of the inherited family business. Provided, that the decedent has continuously run the business for 10 or more years, 20 billion won shall be the ceiling. Where the decedent has continuously run the business for 20 or more years, the ceiling shall be 30 billion won, and where the decedent has continuously run the business for 30 or more years, the ceiling shall be 50 billion won.

(b) Inherited farms, fisheries, and forestry: up to 1.5 billion won

(3) Deductions for children: 50 million won for each

(4) Deductions for minor decedents

Where the inheritor or legatee, or a dependant family member of the decedent is under the age of 19, the legal age, the amount of deduction shall be calculated by multiplying 10 million won by the numbers of years left until he or she becomes 19 years of age.

(5) Deductions for the elderly

Where the inheritor or legatee, or a dependant family member of the decedent is aged older than 65, the amount of deduction shall be 50 million won per person (not applicable to inheritor or legatee's spouse).

(6) Deductions for the disabled

Where the inheritor or legatee or a dependant family member of the decedent is disabled, the amount of deduction shall be calculated by multiplying 10 million won by the numbers of years left considering the life expectancy of the person.

**e. Lump-Sum Deductions**

- (1) The taxpayer has the option to select itemized deductions or a lump-sum deduction.
- (2) Lump-sum deduction: 500 million won

**f. Deductions for Spouse**

Where the bequeathed is a resident, the actual amount inherited by his spouse is deductible. This deduction is allowed for amounts that fall within the range of 500 million won to 3 billion won. If the amount inherited is less than 500 million won, 500 million is deductible.

**g. Deductions for Financial Assets**

- (1) Where net financial assets are a part of the inheritance, the following amounts are allowed as deductions.
  - (a) Where the net financial assets are less than 20 million won, the total amount of the net financial assets shall be deductible.
  - (b) Where the net financial assets are more than 20 million won, MAX (20 million won and 20% of the net financial asset) shall be deductible and 200 million won shall be the ceiling.

**h. Deductions for Losses**

Deductions for Losses Incurred as a Result of Natural Disasters and Other Unforeseeable Circumstances

Deductions are allowed for the loss by fires, collapse of buildings, explosions, environmental pollution, natural disasters, etc., which affect the inherited property and is not covered by insurance, etc.. They are allowed for an amount equivalent to that of the loss incurred.

**i. Tax Rates**

| <b>Tax base</b>                          | <b>Tax rate</b>   |
|--|---|
| 100 million won or less                  | 10%   |
| Over 100 - 500 million won or less       | 10 million won + 20% of the excess over 100 million won |
| Over 500 million - 1 billion won or less | 90 million won + 30% of the excess over 500 million won |
| Over 1 - 3 billion won or less           | 240 million won + 40% of the excess over 1 billion won  |
| Over 3 billion won                       | 1.04 billion won + 50% of the excess over 3 billion won |

**j. Inheritance Tax for Inheritance or Bequests that Skip a Generation**

Where an inheritor or legatee is a lineal descendant other than a child of a decedent, an amount equivalent to 30% of the amount shall be added to the calculated inheritance tax. Where the inheritor or legatee is a lineal descendant other than a child of the decedent and under 19 years old, and the value of the inherited property exceeds 2 billion won, the rate shall be 40%.

**k. Tax Credits**

(1) Gift Tax Credit

A gift tax credit is granted for where a part of the inheritance property was subject to gift tax before the inheritance..

Where inheritance recommences due to the death of the heir or legatee within ten years after the commencement of inheritance, an amount equivalent to inheritance tax previously levied on the re-inherited property, shall be deducted from the amount of inheritance tax calculated.

(2) Foreign Tax Credit

A foreign tax credit is granted to the tax amount paid to a foreign country as an inheritance tax.

(3) Credit Granted for Inheritances that are successively passed through the Generations in a Short Period of Time

If the inheritance property is passed onto the second generation within 10 years of the commencement of the inheritance for the first generation, a progressive credit is granted to the second generation inheritor or legatee of the inheritance property. The rate of progressive credit is as follows:

| Period of inheritance | Rate of progressive credit |
|-----------------------|----------------------------|
| Within 1 year         | 100%                       |
| Within 2 years        | 90%                        |
| Within 3 years        | 80%                        |
| Within 4 years        | 70%                        |
| Within 5 years        | 60%                        |
| Within 6 years        | 50%                        |
| Within 7 years        | 40%                        |
| Within 8 years        | 30%                        |
| Within 9 years        | 20%                        |
| Within 10 years       | 10%                        |

(4) Credit Granted for Tax Returns

A 3% credit is granted to those taxpayers that submit their tax returns on time.

**I. Tax Returns and Payment**

(1) Tax Returns

A person who acquires property by inheritance, bequest, or gift must file a tax return within 6 months after the last day of the month when the inheritance or gift is commenced, together with detailed statements about the amount to be deducted. The government determines the taxable value based on the tax return filed.

(2) Cash Payment

In principle, taxpayers should pay taxes in cash at the time of tax returns. However, when the tax payable is a large amount, the taxpayer may pay in installments or annual installments. Where the tax payable exceeds 10 million won, the taxpayer may pay in installments over two months. Where the tax payable exceeds 20 million won, the taxpayer may request to pay in annual installments for 5 years. Where the tax payable exceeds 20 million won and the inherited property is family business, the taxpayer may request to pay in annual installments for 10 years. Where the tax is paid in annual installments, interest will be added to the tax payable.

(3) Payment in Assets

Where the portion of the real estate or securities out of the inherited property is more than 50%, the inheritance tax amount due exceeds 20 million won, and the value of the inherited financial property falls short of the inheritance tax amount due, it is possible to pay by a transfer of real estate or securities.

**m. Valuation of Inherited Properties or Gift Properties**

(1) In principle, inherited and donated properties are assessed by mark to market prevailing at the time of inheritance or donation.

(2) The following methods of valuation are applied when the market price is not available.

(a) Land and residence: Official value set for an individual piece of land and residence

(b) Buildings: Standard market value set by the NTS

(c) Stocks:

i) Listed stocks: 4-month average market price, 2 months before and 2 months after the transaction

ii) Unlisted stocks:

Assessed by the weighted average of 0.4 Net Asset Value and 0.6 Net Profit Value with a lower limit on the value of weighted average at 80% of the Net Asset Value [i.e. estimated value of unlisted stocks = MAX(current value of the weight average, 80% of the Net Asset



Value)], where:

Net Asset Value = Net Asset Amount of the corporation / Number of  
Total Stock Issued

and

Net Profit Value = the Weighted Average of the Net Profit Per Capita  
of the corporation for the Last Three Years / 10%

#### **n. Determination and Adjustment**

The government shall determine and notify the inheritor or the legatee of an adjustment of the tax base and tax amount of the inheritance and within 9 months from the date of the tax return.

## **2. Gift Tax**

### **a. Taxpayer**

- (1) Resident donee is obligated to pay gift tax.
- (2) Non-resident donee is obligated to pay gift tax on assets located in Korea.
- (3) Where a donee is a for-profit company and the property gifted is subject to corporate income tax, it is exempt from gift tax.

### **b. Tax Base**

The following may serve as the tax base for a donee's gift property:

- (1) All gift properties with economic value that may be converted to monetary value  

All the articles having economic value that can be converted into money
- (2) All legal or actual rights that may be converted to monetary value
- (3) All economic value that may be converted to monetary value

### **c. Exclusions**

- (1) Property given by the central government or local governments
- (2) Property donated to political parties
- (3) Gifts of moderate value (i.e. for medical care and relief)
- (4) School fees, scholarships, etc., paid for as a gift
- (5) Property donated to the central government or local governments, *etc.*

### **d. Deductions**

In the case where the resident donee receives a gift from the following persons, he or she is granted a deduction as follows. Where the combined amount deducted over the last 10 years and deductions from the following items does not exceed the sum in each following item, the exceeded amount is not deducted.

- (1) Spouse : 600 million won
- (2) Lineal family members : 50 million won or 20 million won where the donee is under 19 years old
- (3) Other family members : 10 million won

### **e. Deductions for Losses**

Deductions for Losses Incurred as a Result of Natural Disasters and Other Unforeseeable Circumstances

Deductions are allowed for fires, collapse of buildings, explosions, environmental pollution, natural disasters, etc. that affect the gift property and is not covered by insurance, etc... They are allowed for an amount equivalent to that of the loss incurred.

#### f. Tax Rates

| <b>Tax base</b>               | <b>Tax rate</b>   |
|-------------------------------|---|
| Not more than 100 million won | 10%   |
| 100 - 500 million won         | 10 million won + 20% of the excess over 100 million won |
| 500 million - 1 billion won   | 90 million won + 30% of the excess over 500 million won |
| 1 - 3 billion won             | 240 million won + 40% of the excess over 1 billion won  |
| Over 3 billion won            | 1.04 billion won + 50% of the excess over 3 billion won |

#### g. Gift Tax for Bequests that Skip a Generation

Where a donee is a lineal descendant other than a child of a donor, an amount equivalent to 30% of the amount shall be added to the calculated gift tax. Where the donee is under 19 years old and the value of the gift property exceed 2 billion won, the rate shall be 40%.

#### h. Tax Credits

(1) Gift Tax Credit

A gift tax credit is granted for that part of a gift property that is included as part of another gift property.

(2) Foreign Tax Credit

A foreign tax credit is granted for a tax amount paid to a foreign country as a gift tax.

(3) Credit Granted for Tax Returns

A 3% credit is granted to those taxpayers that turn in their tax returns on time.

## **i. Tax Returns and Payment**

### **(1) Tax Returns**

A person who acquires gift properties is liable to file a tax return within 3 months after the last day of the month when receiving the gift, together with detailed statements about the amount to be deducted. The government determines the taxable value based on the tax return filed.

### **(2) Cash Payment**

In principle, taxpayers should pay taxes in cash at the time of tax returns. However, when the tax payable is a large amount, the taxpayer may pay in installments or annual installments. Where the tax payable exceeds 10 million won, the taxpayer may pay in installments over two months. Where the tax payable exceeds 20 million won, the taxpayer may request to pay in annual installments for 5 years. Where the tax is paid in annual installments, interest will be added to the tax payable.

## **j. Valuation of Gift Properties**

**Please refer to the “Valuation of Inherited Properties or Gift Properties” above on page 143.**

## **k. Determination and Adjustment**

The government shall determine and notify the donee of an adjustment of the tax base and tax amount of the gift tax within 6 months from the date of the tax return.

## Chapter V: Comprehensive Real Estate Holding Tax

### 1. Taxable Objects

Residential houses and land (except villa)

\* Under the Comprehensive Real Estate Holding Tax Law, a residential house includes land to which the house belongs.

### 2. Taxpayer

#### a. Residential House

A person who is liable to property tax on residential house as of June 1<sup>st</sup> and the sum of government-evaluated prices of whose residential houses subject to property tax exceeds 600 million won is liable to the comprehensive real estate holding tax.

\* A person who owns a house under a single tenancy per household– 900 million won

#### b. Land

A person who is liable to property tax on land as of June 1<sup>st</sup> and who falls under one of the following categories:

(1) Land of general aggregate taxable object for property tax (vacant land, etc.):

A person the sum of government-evaluated prices of whose aggregate land subject to comprehensive aggregation taxation for property tax exceeds 500 million won is liable to the comprehensive real estate holding tax.

(2) Land of special aggregate taxable object for property tax (land attached to store, office, buildings, etc.):

A person the sum of government-evaluated prices of whose land of special aggregate taxable object for property tax exceeds 8 billion won is liable to the tax.

\* Land of separate taxable object: excluded from comprehensive real estate holding tax.

- (a) Farmland (dry field, rice paddies, orchard), forests, pasture lots, factory sites within the standard area.
- (b) Land for private golf courses and luxury amusement etc.

### **3. Tax Base**

#### **a. Residential House:**

The tax base applied to the comprehensive real estate holding tax on housing is calculated by multiplying declared value of house summed up per tax obligor with being 600 million won deducted by fair market value rate, which is declared under Presidential Decree within the range between 60% and 100% for each tax payer, considering real estate market conditions and financial status.

- \* 900 million won is deductible for those who owns a house under a single tenancy household
- \* The ratio of fair market value: 90%

#### **b. Land**

(1) The tax base applied to the comprehensive real estate holding tax on lands of general aggregate taxable object is calculated by multiplying declared value of the taxable object of land summed up per tax obligor with being 500 million won deducted by fair market value rate, which is declared under Presidential Decree within the range between 60% and 100% for each tax payer, considering real estate market conditions and financial status.

- \* The ratio of fair market value: 90%

(2) The tax base applied to the comprehensive real estate holding tax on lands of separate aggregate taxable object is calculated by multiplying declared value of taxable object of land summed up per tax obligor with being 8 billion won deducted by fair market value rate which is declared under Presidential Decree within the range between 60% and 100% for each tax payer, considering real estate market condition and financial status.

- \* The ratio of fair market value: 90%

#### 4. Tax Rates

##### (1) Two houses or less

| Tax base                  | Tax rate |
|---------------------------|----------|
| 300 million won or less   | 0.5%     |
| 600 billion won or less   | 0.7%     |
| 1.2 billion won or less   | 1.0%     |
| 5 billion won or less     | 1.4%     |
| 9.4 billion won or less   | 2.0%     |
| More than 9.4 billion won | 2.7%     |

##### (2) Two houses in an area subject to adjustment or three houses or more

| Tax base                  | Tax rate |
|---------------------------|----------|
| 300 million won or less   | 0.6%     |
| 600 billion won or less   | 0.9%     |
| 1.2 billion won or less   | 1.3%     |
| 5 billion won or less     | 1.8%     |
| 9.4 billion won or less   | 2.5%     |
| More than 9.4 billion won | 3.2%     |

#### b. Land

##### (1) Land of special aggregate taxable object for property tax (vacant land etc.)

| Tax base                  | Tax rate |
|---------------------------|----------|
| 1.5 billion won or less   | 1.0%     |
| 4.5 billion won or less   | 2.0%     |
| More than 4.5 billion won | 3.0%     |

- (2) Land of special aggregate taxable object for property tax (land attached to store, office, buildings, etc.)

| <b>Tax base</b>        | <b>Tax rate</b> |
|------------------------|-----------------|
| 20 billion won or less | 0.5%            |
| 40 billion won or less | 0.6%            |
| Over 40 billion won    | 0.7%            |

## 5. Tax Credits

### a. Property Tax Exemption

The amount equal to the property tax amount levied as local tax on the excess of the value of property subject to the comprehensive real estate holding tax over value threshold described in 2 above is deductible against the comprehensive real estate holding tax.

### b. Tax Exemption for Those Who Owns a House under a Single Tenancy per Household

- (1) Tax exemption for the elderly

A person aged 60 or more who owns a house under a single tenancy per household is exempt from property tax by applying the following age-specific deduction rate to calculated tax amount of the comprehensive real estate holding tax as of the basic date for taxation.

| <b>Age</b> | <b>Deduction rate</b> |
|------------|-----------------------|
| 60 - 64    | 10%                   |
| 65 - 69    | 20%                   |
| Over 70    | 30%                   |



(2) Tax exemption for holding house for a long period of time

A person who owns a house under a single tenancy per household holds the house over five years is exempt from property tax by applying the following deduction rate depending on holding period to calculated tax amount of the comprehensive real estate holding tax as of the basic date for taxation.

| Holding period         | Deduction rate |
|------------------------|----------------|
| 5 – less than 10 years | 20%            |
| 10 years or more       | 40%            |
| 15 years or more       | 50%            |

**6. Determination of Tax Obligation**

Whether or not a person is liable to the comprehensive real estate holding tax is determined based on status of ownership as of June 1<sup>st</sup>.

**7. Non -Taxation & Exemptions/Reductions**

- a. Provisions on non-taxation, tax exemptions and reductions for property tax under the Local Tax Code, the Special Tax Treatment Control Law and municipal and county ordinances (except for some non-taxation, exemptions, reductions under municipal and county ordinances) apply mutatis mutandis.
- b. Leased house, a company house for employees, unsold houses of housing construction business and child day care centers, unsold new houses which a house builder receives as the construction costs, a house located outside Seoul, Incheon and Gyeonggi province, a house provided by government-sponsored institutions to researchers in the institutions, a house as registered cultural property, unsold houses acquired by corporate restructuring REITs or real estate collective investment vehicles by Dec. 31, 2012, the welfare houses for the elderly, attached land to houses owned by properties of Confucian schools (in the case where the owner of the house and the owner of attached land is different) which meet certain criteria are excluded from the scope of residential houses for the purpose of this chapter.

**8. Ceiling on Tax Liability**

Where a taxpayer's tax liability (the sum of property tax amount and comprehensive real estate holding tax amount) for the taxable year concerned exceeds 150% of that of the previous year (150% in the case of land of special aggregate taxable object), the excess amount is tax-exempt.

## **9. Tax Imposition and Collection**

The concerned tax office determines tax liability and imposes and collects it from December 1<sup>st</sup> of the year to December 15<sup>th</sup>. Tax return is issued until 5 days before the first day of tax payment period. However, reporting and payment are allowed to be made from December 1<sup>st</sup> of the year to December 15<sup>th</sup> depending on reporting and payment methods.

## **10. Transfer of Collected Tax**

The collected Comprehensive Real Estate Holding Tax is used for financing local governments.

## **Chapter VI: Value Added Tax**

### **1. Taxpayer**

#### **a. Taxpayer**

- (1) A person, who engages in the supply of goods or services independently in the course of business, whether or not for profit, is liable to value-added tax.
- (2) Taxpayers include individuals, corporations, the government and local authorities, associations of local authorities, any bodies of persons, and unincorporated foundations of any other organizations are generally subject to Value Added Tax.

#### **b. Registration**

##### **(1) Registration**

A person who newly starts a business shall register the required particulars of each business place within twenty days from the business commencement date. The particulars may be registered before the business commencement date. Then the tax office having jurisdiction over the business place of the trader (hereinafter “the competent tax office”) shall issue a business registration certificate to the trader concerned.

##### **(2) Notification of change in status**

A registered trader who has suspended or closed down the business or who has come to recognize a change in any of registered particulars is required to make a report without delay to the competent tax office. The same applies when a person who has registered prior to the planned business commencement date fails to actually start his business.

### **2. Taxable Period**

#### **a. General**

The taxable period for VAT is divided into two.

- (1) First period: January 1 to June 30
- (2) Second period: July 1 to December 31

#### **b. Simplified Taxation**

The taxable period for simplified taxation is January 1 to December 31.

#### **c. Taxable Period for Newly-Established Businesses**

The initial taxable period for any person establishing a new business shall be from the starting date of the business to the last day of the taxable period which the starting date falls upon. Where registration is made prior to the commencement of business, the taxable period begins with the date of registration. In many instances, the commencement date of a business is set out in the Enforcement Regulations. For example:

- (1) Manufacturing: the date when the manufacture of products begins
- (2) Mining: the date when the mining or collecting of minerals begins
- (3) Others: the date when the supply of goods or services begins
- (4) Where business is converted from tax-exempted to taxable operation due to tax reform, etc.: the date when the business is converted to taxable operation

#### **d. Taxable Period for Liquidating Business**

The last taxable period for any trader liquidating business shall be from the beginning date of the taxable period upon which the closing falls to the date of closing.

#### **e. Taxable Period for a Person who waives the Right to Simplified Taxation**

The taxable period for this case shall be from the starting date of the taxable period in which reporting of the waiver of simplified taxation takes place to the last day of the month in which such report is made. The other taxable period shall be from the first day of the month following the month in which the date of report falls on to the last day of the taxable period. These two taxable periods are separate.

### **3. Taxable Transactions**

#### **a. General**

##### (1) Taxable transactions

Value added tax is imposed on the following transactions:

- (a) The supply of goods or services
- (b) The importation of goods

##### (2) Range of goods and scope of services

###### (a) Range of goods

Goods under the Value Added Tax Law mean all tangible and intangible objects that have values as property. Tangible objects include commodities, products, raw materials, machinery, buildings, and other objects with tangible form. Intangible objects include motive power, heat, other controllable forces of nature, and rights.

###### (b) Scope of services

Services mean all services and other activities that have values as property, other than goods.

###### (c) Subsidiary supply of goods and services

The supply of goods or services that takes place necessarily accompanying the supply of goods that is treated as a primary transaction is deemed to be included in the primary supply of goods. The supply of goods or services that takes place necessarily accompanying the supply of services that is treated as a primary transaction is also deemed to be included in the primary supply of services.

#### **b. Supply of Goods**

##### (1) Taxable supplies of goods

A taxable supply of goods means delivery or transfer of goods under a contract or by law.

(2) Self-supplies of goods

Where a trader directly uses or consumes goods that are acquired or produced in the course of his or her business, such direct use or consumption except for the case of stock-in-trade to use or to consume goods as raw materials, is deemed to be a supply of goods to the trader himself/ herself.

(3) Personal use and gifts

Where a trader uses or consumes goods produced or acquired in the course of the business for his or her personal use or for the employees, or where a trader donates such goods to customers or other persons, such use, consumption, or donation is deemed to be a supply of goods.

(4) Inventory goods at the time of liquidation

Inventories owned at the time of liquidation of a trader's business are considered to be supplied to himself/herself. The same applies where a VAT-registered person fails to actually start a business.

(5) Transactions through a consignee or an agent

The sale or purchase of goods by consignee or agent is deemed same as if the consignor or the principal directly supplies the goods or the goods are supplied directly; however, the preceding provisions of this paragraph do not apply where the consignor or the principal cannot be identified.

(6) Offer of security and transfer of business

Offering goods as a security or alienating a person's business to any other person comprehensively is not deemed to be a supply of goods.

**c. Supply of Services**

(1) Taxable supplies of services

A taxable supply of services includes the rendering of services or the leasing of goods or facilities, or the granting of rights under a contract or by law.

(2) Self-supplies of services

Where a trader directly provides services for his or her own business, such direct supply of services is deemed to be a self-supply of services.

(3) Services involving no consideration and services provided by employees

The rendering of services to other persons, without involving any consideration or under an employment contract, is not treated as a supply of services.

**d. Importation of Goods**

Importation of goods includes carrying the following goods into Korea or from bonded areas:

- (1) Goods arriving in Korea from abroad (including marine products gathered in high seas by foreign vessels)
- (2) Goods licensed for exportation.

**e. Time of Transaction**

(1) Time of supply of goods

Goods are deemed to be supplied at the time as specified in the following:

- (a) In the case of the supply of goods that requires the goods to be moved: the time when they are delivered
- (b) In the case of the supply of goods that does not require the goods to be moved: the time when they are made available
- (c) Where the provisions of items (a) and (b) are not applicable: the time when the supply of goods is confirmed.

(2) Time of supply of goods in detail

Goods are deemed to be supplied at the time as specified in the following. However, if the goods are supplied after the date of the closedown, the closedown date shall be regarded as the time of supply.

- (a) Cash or credit sales: The time when goods are delivered or made available
  - The time when goods are delivered in the case where gift vouchers, etc. are sold in cash or charge and then such gift vouchers, etc. are exchanged in-kind.
- (b) Sales made on long term installment payments: The time when each portion of the proceeds is stipulated as receivable

- (c) Supply of goods under terms of payment on percentage of work completed, or under terms of partial payments: The time when each portion of proceeds is receivable
  - (d) Processing deemed to be a supply of goods: The time when the processed goods are delivered
  - (e) Self-Supplies or the supply of services for personal use, or gift purposes: At the time of consumption or use of the goods
  - (f) Business closedown: The time of closedown
  - (g) Goods supplied through vending machines: The time when the respective businessperson takes money from the machines
  - (h) Other cases: When goods are delivered or deliverable
  - (i) Exports: Date of shipping
  - (j) Where a businessperson within a bonded area supplies goods outside the bonded area in the country and the goods concerned fall under the category of imported goods: Date of export declaration
- (3) Time of supply of services

Services are deemed to be provided at the time as described in the following. However, if the time of supply of services comes after the closedown of the business, the date of the closedown shall be regarded as the time of supply.

- (a) Normal supply: when the services have been completely rendered
- (b) Providing services under the terms of payment based on the percentage of work completed, partial payment, deferred payment, or any other terms: when each portion of the payments is to be received
- (d) Where provisions (a) and (b) are not applicable: When services have been completely rendered and the value of the supply is determined
- (e) Regarding the deemed rent of deposit for real estate leasehold or advance or deferred payment of rent that a businessman pays upon leasing land, buildings, and other structures built on the land: when the preliminary tax return or the taxable period has been completed
- (f) Where receiving the consideration in advance of providing services covering two or more taxable periods as like the case where a



person running a gym receives an annual fee first, and allows the members to use facilities: when the preliminary VAT return is filed or the taxable period is terminated

(4) Deemed time of supply

Where a trader has received partial or full amount of the consideration for the supply of goods or services concerned and has issued a tax invoice or receipt for the payment before the time of supply as prescribed above, the time of issuance of the tax invoice/receipt is deemed to be the time of supply. However, in the case of long-term installment sales or supplies with indivisible supply unit, the previous system is maintained.

**f. Place of Transaction**

(1) The place of supply of goods

A supply of goods is deemed to take place in the place as specified in the following:

- (a) In the case of the supply of goods which requires the goods to be delivered: the place where the delivery of goods commences
- (b) In the case of the supply of goods which does not require the goods to be delivered: the place where the goods are located at the time of the supply of goods

(2) The place of supply of services

A supply of services is deemed to take place in the place as specified in the following:

- (a) The place where services are rendered, or where goods, facilities or rights are used
- (b) In the case of international transportation carried on by a non-resident individual or a foreign corporation: the place where passengers get aboard or freight is loaded

**4. Zero-Rating and Exemptions**

**a. Zero-Rating**

The following goods and services are VAT zero-rated and the input tax incurred is refundable. Zero-rating is applicable only to traders who are residents or

domestic corporations. However, traders who are non-residents or foreign corporations are subject to zero-rating on a reciprocal basis.

- (1) Goods for exportation
- (2) Services rendered outside Korea
- (3) International transportation service by ships and aircraft
- (4) Other goods or services supplied for foreign exchange earning

#### **b. Exemptions**

- (1) The supply of the following goods or services is subject to exemption and the input tax incurred thereon is not refundable. However, traders may elect not to be exempted.
  - (a) Basic life necessities and services
    - i) Unprocessed foodstuffs (including but not limited to agricultural products, livestock products, marine products, and forest products that are used for food) and agricultural products, livestock products, marine products, and forest products prescribed by Presidential Decree that are produced in Korea but are not used for food
    - ii) Piped water
    - iii) Briquette and anthracite coal
    - iv) Passenger transportation services, except for transportation services by aircraft, deluxe express buses, express train (KTX), chartered buses, taxis, special automobiles, or special ships
  - (b) Social welfare services
    - i) Medical and health services, including services of veterinarians, nurses and midwives, and pharmaceutical services of compounding medicines and human blood

\* From July 1, 2011, taxes are imposed on aesthetic plastic surgery and services of veterinarians (excluding services to livestock such as cows, pigs and horses; fish, shellfish and other marine animals).
    - ii) Education services prescribed by the Presidential Decree
  - (c) Goods or services related to culture
    - i) Books, newspapers, magazines, official gazettes and communication

- ii) Artistic works, artistic and cultural events for non-profit purposes, and non-professional sports games
  - iii) Admission to libraries, science museums, museums, art galleries or botanical gardens
- (d) Personal services similar to labor
- i) Other personal services rendered independently without structures, instruments used continuously, repeatedly for business (including ones rented) and without employing any worker by actors, singers, radio performers, composers, writers, designers, professional sportsmen, dancers, waitresses, salesmen of books or disks, translators, shorthand writers, etc.
  - ii) Academic research services
  - iii) Technical research services
- (e) Other goods or services
- i) Postage stamps (excluding postage stamps for collection), revenue stamps, certificate stamps, lottery tickets, and public telephone cards
  - ii) Such goods or services rendered by religious, charitable, scientific, or other organizations which promote the public interest
  - iii) Goods or services supplied by the government, local authorities, or associations of local authorities
  - iv) Goods or services supplied, without any consideration, to the government, local authorities, associations of local authorities, or public benefit organizations
  - v) Lease of house or the land pertaining to the house of an area, which is not larger than 5 or 10 times the floor space of the house
  - vi) Finance and insurance services
- (f) Duty-exempt goods

Importation of the following duty-exempt goods under the Customs Law is exempted from value-added tax.

- i) Unprocessed foodstuffs (including agricultural products, livestock products, marine products, and forest products used for food)
- ii) Books, newspapers, and magazines
- iii) Goods imported for scientific, educational, or cultural use by a scientific research institute, an educational institute, or a cultural organization
- iv) Goods donated from a foreign country to a religious, charitable, relief, or any other public benefit organization

(2) Waiver of exemption

In the case where the supply of goods or services eligible for zero-rating is exempt from value-added tax, the traders may, subject to the Presidential Decree, elect not to be exempt from value-added tax. A trader who waives the ordinary exemption is not entitled to the exemption for 3 years after the beginning day of the first assessable year in which the waiver is intended to be applied.

## 5. Tax Base and Assessment

### a. Tax Base

(1) Calculation of tax base

(a) Principle for calculating the tax base

The tax base of value-added tax for the supply of goods or services is an aggregate amount of the value as specified under the following. However, value-added tax is not to be included in the base.

- i) If the supply is for a monetary consideration, its consideration
- ii) If the supply is for a non-monetary consideration, its open market value
- iii) If the actual consideration provided to a specially related person is considered to be unduly less than that which might reasonably be expected or if there is no consideration, its open market value
- iv) In the case of the inventory goods at the time of the closing down of a business, the open market value of the inventory goods

(b) Conversion of foreign currency

Conversion methods for monetary consideration for foreign currency or other foreign exchange:

- i) In the case of conversion before the time of supply, the converted amount
- ii) In the case of conversion after the time of supply, an amount calculated based on the basic rate or cross rate of customers at the time of supply

(2) Special cases

- (a) In the case of sales in installments or sales on deferred payment plans, the tax base is each part of the consideration receivable under the contract.
- (c) In the case of credit sales, the tax base is the total amount of supplied goods.
- (d) In the case of supply of goods or services on the condition of payment based on work completed, or interim payments, or in the case of continuous supply of goods or services, each part of the consideration receivable under the contract becomes the tax base.

(3) Tax base for self-supply

In the case of ordinary self-supply, the open market price of the goods is the tax base. However, in the case of self-supply of depreciable goods, the market price is one of the following.

- (a) Buildings or construction structures

Tax base = Acquisition price x (1-5/100 x Number of taxable periods elapsed following acquisition)

- (b) Other depreciable goods

Tax base = Acquisition price x (1-25/100 x Number of taxable periods elapsed following acquisition)

- (c) Calculation of the number of taxable periods elapsed following acquisition
  - i) If the goods are acquired (or if exempt from the value-added tax during a taxable period), the acquisition (or exemption) shall be deemed to have occurred on the commencement date of the taxable period.

- ii) The number of taxable periods elapsed applicable to the tax base is limited to 20 for buildings and construction structures, and four for other depreciable goods.

(4) Amounts included and not included in the tax base

(a) The following amounts are excluded from the tax base:

- i) Amount of sales allowance
- ii) Value of returned goods
- iii) Value of goods broken, lost or damaged before they are delivered
- iv) National or public subsidies excluding subsidies directly linked to the price of supply,
- v) Interest on late payment of consideration for the supply of goods or service as prescribed by the Presidential Decree, and
- vi) Discount on value of supply of goods or services after the supply thereof as prescribed by the Presidential Decree

(b) The amounts of discount, bad debt, bounty or other similar amounts in relation to the value of supply after the supply of goods or services, is included in the tax base.

(5) Tax base for the importation of goods

The tax base for the importation of goods is an aggregate of the price on which customs duties are chargeable, the customs duties, the individual consumption tax, the liquor tax, the education tax, the special tax for rural development, and the transportation energy environment tax thereon. The price on which the customs duties are chargeable is the normal arrival price (CIF price).

**b. Tax Rates**

(1) The current rate

The rate of value-added tax is 10%.

(2) Application of the tax rate

Where the tax rate is applicable on the VAT exclusive price, the 10% rate is applied. However, in the case of application on the VAT inclusive price of the retailers, the tax rate becomes 10/110. Where VAT is not separately collected

at the time of the transaction, the tax rate of 10/110 is applicable on the VAT inclusive price.

**c. Collection at Transaction**

The value-added tax will be collected where a trader supplies goods or services. It is computed by multiplying the tax base to the tax rate.

**d. Amount Payable**

(1) Computation of tax amount

The amount of value-added tax is computed by deducting the input tax amount under the following items from the output tax amount chargeable on the goods or services supplied by the taxpayer. The input tax which exceeds the output tax is refundable.

- (b) The tax on the supply of goods or services that a trader has used or intends to use for his business
- (c) The tax on the importation of goods that a trader has used or intends to use for his business

(2) Input taxes not deductible

The input taxes are not deducted from the output tax where:

- (a) A trader has not received a tax invoice, has not submitted to the government an aggregate summary of the tax invoices of every individual supplier, has not recorded the whole or in part the necessary items to be recorded, or where the contents of the tax invoices are proved to be different from the facts (However, where a trader submits the tax invoice received with a revised return on the tax base under the Framework Law on National Taxes, or where a person whose tax base and tax amount payable or refundable are corrected by the head of a tax office submits to the government the tax invoice and sales slips of credit card and is certified by the head of the tax office, the input tax amount shall be deducted from the output tax amount).
- (b) The input tax amount of expenses are not directly related to the business.
- (c) The input tax amount on the purchase, maintenance and leasing of small automobiles except for those used in transportation business.

- (d) The input tax amount on the supply of goods or services is exempted (including the input tax amount in relation to investment).
- (e) The amount of entertainment expenses or similar expenses are provided in the Presidential Decree.
- (f) The input tax is levied before the taxable period to which supply belongs.

\* However, if the registration is done within 20 days after the end of the taxable period, the input taxes are deducted.

### (3) Deemed input tax deduction

Where goods or services manufactured or processed using as raw materials agricultural, livestock and fishery products, which are exempted from value-added tax, are supplied, the amount that is computed by multiplying the supply prices of agricultural and other products by the following ratios can be deducted from output tax amount:

- (a) Restaurant business:
  - i) Self-employer: 8/108 (For a tax base of 200 million won or less for one taxable period, 9/109 by the end of 2021)
  - ii) Corporation: 6/106
  - iii) Manager of taxable entertainment spot: 2/102
- (b) Small- and medium-sized manufacturing business (including individual businesses): 4/104 (individual business operators engaged in bakeries, cereal polishing, flour milling, rice cake mills: 6/106)
- (c) Other businesses: 2/102

### (4) Bad debts tax deduction

In the case where a taxable trader has supplied taxable goods or services on credit but could not collect the account receivables for the supply because the receiver of the supply has dishonored a bill, has become bankrupt, etc. and the trader has treated the account receivables as bad debts, the VAT on the goods or services should be arranged as follows (the scope of account receivables treated to be bad debts is the same as that under the Income Tax Law and the Corporation Tax Law).



- (a) The supplier may deduct the uncollected VAT from the output tax amount for the VAT period on which the day of the determination of bad debts falls:

$$\text{- Deductible VAT} = \text{Bad Debts} \times 10/110$$

- (b) The government shall collect the VAT amount already deducted from the supplier's output VAT from the person who received the supply.

#### **e. Tax Invoice and Bookkeeping**

##### (1) Tax Invoice

- (a) Contents of invoice

When a registered trader supplies goods or services, he or she shall issue an invoice to the other party. The contents of the invoice shall contain:

- i) The registration number and the name of the individual or corporation trader
- ii) The registration number of the other party to the supply
- iii) The value of the supply and value-added tax thereon
- iv) The date, month and year of issuance of the tax invoice
- v) Other particulars as prescribed by the Presidential Decree

- (b) Receipts

A trader who carries on businesses such as retail outlets, ordinary restaurants, hotels, passenger transport, etc. may issue a tax invoice in which the name of the other party to the supply and the amount of value-added tax are not recorded separately ("receipts").

- (c) E-tax invoice

A corporate trader and an individual trader prescribed by the Presidential Decree shall issue e-tax invoice.

##### (2) Bookkeeping

- (a) A trader is required to maintain accounting records of all transactions at each business place.

(b) Mixed transactions

Where a trader supplies exempt goods or services together with taxable goods or services, he or she should separately enter the transaction information into the books.

(c) Keeping record

A trader should keep the books in which the transactions are recorded and the tax invoices or receipts issued or received for a period of five years from the date of the final return for the taxable period in which the transactions are filed.

(d) Tax invoices for transactions through a consignee or agent

In the case of consignment sales or sales through an agent, the consignee or agent shall issue the tax invoice. Where the goods are delivered directly by the consignor or the principal the tax invoice shall be issued. In the case of consignment purchases or purchases through an agent, the supplier shall issue the tax invoice to the consignor or principal, in both cases, the registration number of the consignee or agent shall be recorded additionally in the invoices.

(e) Monthly issue of tax invoice

Where deemed necessary, the trader may prepare and issue a tax invoice by aggregating the total receivables of transactions of all parties to the end of the month.

(f) Adjustment of tax invoice

Where there is an error or needs to make corrections in the submitted tax invoice after the issuance of the tax invoice, the trader shall re-prepare and re-issue the tax invoice.

(g) Exemption from obligations to issue tax invoice

Persons carrying on one of the following businesses are exempt from the obligation to prepare and issue tax invoices:

- i) Self-supply of goods, personal use of goods, donation for a business purpose, supply at the time of closing down of a business, and self-supply of services

ii) Export of goods, supply of services abroad, and other specific supplies of goods or services earning foreign currency that are subject to zero-rating

(h) Prevention of double issuance of tax invoice and credit card receipts

When a retailer issued credit card receipts, additional issuance of a tax invoice is not allowed.

(i) Tax invoice at the time of importation

When importing goods, customs collectors are required to prepare and issue tax invoices in accordance with the provisions of the Customs Law.

(3) Cash Register

(a) Installation

Traders who carry on retail businesses, ordinary restaurants, hotels, and other similar businesses shall install a cash register and issue tax invoices on which the consideration for the supply is recorded.

(b) Deemed bookkeeping and taxation on the basis of cash receipts

In the case where a trader issues tax invoices and keeps tapes of audit, he or she is deemed to have performed his obligation of bookkeeping and issuance of receipts. In relation to a taxpayer that has installed a cash register, value-added tax may be chargeable based on cash receipts.

## **6. Tax Returns and Payment**

### **a. Preliminary Returns and Payment**

(1) A trader is required to file a return on the tax base and tax amount payable or refundable to the appropriate tax office within 25 days from the date of termination of each preliminary return period; the first preliminary taxable period is from January 1 through March 31, and the second preliminary taxable period is from July 1 through September 30.

(a) Notwithstanding the provisions above, an individual trader is required to pay the tax amount equivalent to half of that paid for the immediately preceding regular return period. Tax amount less than 300,000 won is not collected.

- (b) If an individual trader whose tax amount to be reported under a preliminary return, due to the suspension of the business, business depression, or his or her wishes of an early refund, is less than one-third of the amount of tax paid for the immediately preceding regular return period, then the actual tax amount collected or refundable during the preliminary return period may be reported.
- (2) A trader shall pay the tax amount payable for the preliminary return period to the appropriate tax office at the time of filing the return.
- (3) If a trader is approved as a taxable unit by the superintendent of the competent tax office of his or her main place of business, the trader shall sum up and report to the superintendent the tax returns for all business places.

**b. Final Returns and Payment**

- (1) A trader must file to the competent tax office a return on the tax base and the tax amount payable or refundable in respect of each taxable period within 25 days after the expiration of the taxable period concerned.
- (2) A trader is required to pay the tax amount payable to the competent tax office at the time of filing the return.
- (3) If a trader is approved as a taxable unit by the superintendent of the competent tax office of his or her main place of business, the trader shall sum up and report to the superintendent the tax returns for all business places.

**c. Presentation of a Schedule of Summary of the Tax Invoices**

- (1) A trader is required to submit an aggregate summary of the tax invoices classified by sales place and purchase place at the time of the preliminary return or final return. However, if prescribed by law or the Presidential Decree, a trader may submit the above documents at the time of the final return concerned.
- (2) A trader may submit to the competent tax office a schedule of tax invoices which he or she failed to submit at the time of filing each preliminary return and at the time of the final return for the taxable period in which the preliminary return period concerned falls upon.
- (3) Collectors of customs houses who issued tax invoices and the national and local authorities, associations of local authorities, or the other bodies that received tax invoices should, even if they are not liable to pay value-added tax, submit to the competent tax office a schedule of the tax invoices.

#### **d. Payment Place**

A taxable person is required to pay the value-added tax at each business place. However, in the cases where a trader has more than two business places, he or she may pay the entire value-added tax at the main business place with approval from the competent tax office having jurisdiction over the main business place.

#### **e. Reverse Charge**

- (1) A person who receives supply of services or intangibles from a non-resident or foreign corporation in the case of (1) or (2) shall collect the VAT at the time of the payment for such services and pay the amount to the government, except in the cases where services received are used in taxable operations.
  - (a) A non-resident or a foreign corporation not owning a place of business in Korea
  - (b) A non-resident or a foreign corporation with a permanent establishment supplies service not attributable and related to a domestic place
- (2) Where either (a) or (b) supplies services or intangibles through an agent, which is registered according to the Korean VAT Law, the services or intangibles are deemed to be supplied by the agent; thus, the agent should pay the VAT for the services and intangibles originally supplied by either (a) or (b).
- (3) Where either (a) or (b) supplies electronic services, either (a) or (b) shall file a return and pay the VAT for the electronic services after a simplified registration of business.

#### **f. Special Cases concerning Supply of Electronic Services by Foreign Entrepreneurs**

- (1) Where a foreign individual or company provides any of the following services through an information communications network by way of a mobile device or computer, such individual or company shall be liable to VAT and the services provided shall be deemed to have been rendered domestically:
  - (a) Game, voice records, video files or software, etc.;
  - (b) Posting of advertisements;

- (c) Cloud computing;
  - (d) Brokerage of goods or services.
- (2) Where a foreign individual or company provides electronic services to Korea through the following third parties, such third parties shall be deemed to have provided the electronic services:
- (a) A person operating an open market or equivalent and providing related services;
  - (b) A person engaged in activities concerning brokerage of electronic services, etc, in particular, a person who receives transaction payments from the purchaser and give them to the seller.
- (3) A person providing electronic services to Korea in accordance with (1) or (2) shall register him/herself as a simplified business operator and file returns for and pay VAT during a pre-filing period or final reporting period.

**g. Tax Manager**

- (1) Where an individual trader falls under any of the following categories, he or she should designate a tax manager to deal with the filing of tax returns, payment, refund and any other necessary matters, and report to the competent tax office:
- (a) Where he or she is not normally stationed at the business place
  - (b) Where he or she intends to stay in other countries for a period of more than six months
- (2) If a trader deems it necessary, he or she may designate a tax manager with certain qualifications to deal with the filing of tax returns, payment, refund and any other necessary matters

**7. Adjustments, Collection, and Refund**

**a. Adjustments**

- (1) Adjustments

Only in the following cases shall the competent tax authority reassess, through an investigation, the value-added tax base and tax amount payable or tax amount refundable for the taxable period:

- (a) When the final tax return is not filed
- (b) When details of the final tax return are erroneous or have any omissions
- (c) When filing the final tax return, a schedule of summary of the tax invoices has not been submitted in whole or in part
- (d) In the cases other than under (a) to (c), where value-added tax is likely to be evaded for the following reasons:
  - i) When the place of business is changed frequently
  - ii) When the place of business is located in an area where places of business are deemed to change frequently
  - iii) When the business is in a state of suspension from operations or liquidation

## (2) Adjustment by estimation

In the case of a reassessment of tax amount payable or tax amount refundable for each taxable period pursuant to the provision of (1), the competent tax authority shall reassess them on the basis of tax invoices, accounting books, and any other evidence; however, in the following cases, the reassessment may be made by estimation:

- (a) When the tax invoices, accounting books, and any other evidence necessary for the calculation of the tax base are either missing or incomplete in major portions
- (b) When details of the tax invoices, accounting books, and any other evidence are evidently false in view of the capacity of the facilities, number of employees, and the market prices of raw materials, commodities, products, or various charges
- (c) When details of the tax invoices, accounting books, and any other evidence are evidently false in view of the quantities of raw materials used, electric power used, and other operating status

**b. Inquiry and Investigation**

- (1) Where it is necessary to make an investigation, the tax officials concerned may make an inquiry into the related matters or investigate business records and articles related thereto.
- (2) Where it is necessary to preserve the right for value-added tax or to investigate the matters related thereto, the competent tax authority may order taxpayers to present business records and articles related thereto, and may request any other necessary materials.

**c. Penalty Tax**

| Type          |   | Coverage  | Applied amount | Penalty tax rate | Etc.  |
|---------------|---|---|----------------|------------------|---|
| ①Registration | Ⓐ Penalty tax for non-registration            | In the case of non-registration   | Supply price   | 1%               | 0.5% of supply price for simplified taxpayers |
|               | Ⓑ Penalty tax for false registration          | In the case of being registered under others' name  | Supply price   | 1%               |   |
| ②Revenues     | Ⓐ Penalty tax for non-issuance of tax invoice | In the case of non-issuance of tax invoice  | Supply price   | 2%               |   |
|               | Ⓑ Penalty tax for Delayed issuance            | In the case of issuing tax invoice by the deadline for filing a final return for the taxable period during which the relevant goods or services are | Supply price   | 1%               |   |



|   |   |   |      |  |
|---|---|---|------|--|
|   | supplied  |   |      |  |
| ⒸPenalty tax for false tax invoice  | In the case of issuing tax invoice without providing goods and services                         | Supply price                                      | 3%   |  |
| ⒹPenalty tax for issuing tax invoice under others' name                             | In the case of issuing tax invoice under the name other than the supplier of goods and services | Supply price                                      | 2%   |  |
| ⒺPenalty tax for entering inflated amount of supply price                           | In the case of entering inflated amount of supply price after the supply of goods or services   | Inflated amount exceeding the actual supply price | 2%   |  |
| ⒻPenalty tax for incomplete tax invoice   | In the case where tax invoice contains omission or false information                            | Supply price                                      | 1%   |  |
| ⒼPenalty tax for non-submission of aggregated tax invoice on a place of sales basis | In the case where aggregated tax invoice is not filed on a place of sales basis                 | Supply price                                      | 0.5% |  |
| ⒽPenalty tax for incomplete tax invoice on a place of sales basis                   | In the case where aggregated tax invoice contains omission or false information                 | Supply price                                      | 0.5% |  |

|           |   |   |   |      |  |
|-----------|---|---|---|------|--|
|           | ①Penalty tax for delayed submission of aggregated tax invoice   | In the case of submitting estimated tax liability when filing confirmation report   | Supply price                            | 0.3% |  |
|           | ①Penalty tax for delayed submission of e-tax invoice  | In the case of submitting e-tax invoice by the deadline for filing a final return for the taxable period during which the relevant goods or services are supplied     | Supply price                            | 0.3% |  |
|           | ①Penalty tax for non-submission of e-tax invoice  | In the case of not submitting e-tax invoice by the deadline for filing a final return for the taxable period during which the relevant goods or services are supplied | Supply price                            | 0.5% |  |
| ③Purchase | ①Penalty tax for entering inflated amount of supply price into the sum table of tax invoices on place of purchase | In the case where supply price is inflated or false   | Inflated amount of supply price entered | 0.5% |  |

|  |  |  |   |      |  |
|--|--|--|---|------|--|
|  | Ⓑ Penalty tax for delayed receipt of tax invoice                                       | In the case of receiving tax invoice after the issuance period   | Supply price                                      | 0.5% |  |
|  | Ⓒ Penalty tax for non-submission of the sum table of tax invoices on place of purchase | In the case where input tax deduction is allowed through tax invoice after the authorities confirm revision claims | Supply price                                      | 0.5% |  |
|  | Ⓓ Penalty tax for false tax invoice  | In the case of receiving tax invoice without getting goods and services  | Supply price                                      | 3%   |  |
|  | Ⓔ Penalty tax for receiving tax invoice under other's name                             | In the case of receiving tax invoice under the name other than the supplier of goods and services                  | Supply price                                      | 2%   |  |
|  | Ⓕ Penalty tax for entering inflated supply price                                       | In the case of receiving tax invoice with inflated supply price after being supplied with goods or services        | Inflated amount exceeding the actual supply price | 2%   |  |
|  | <b>④ Penalty tax for incorrect filing of zero-rated tax base</b>                       | In the case of non-reporting, underreporting and non-submission of necessary document                              | Supply price                                      | 0.5% |  |
|  | <b>⑤ Exclusion of overlapping penalties</b>  | i) Excluding ②-ⒷⒻⒼⒽⒾⒿⓀ from ①<br>ii) Excluding ②-ⒼⒽⒾ from ②-ⒷⒻⒿⓀ   |   |      |  |

|  |  |
|--|--|
|  | iii) Excluding ①②-g③-h④-i⑤-a⑥-b⑦ from ②-a③-c④-d⑤-e⑥-f<br>iv) Excluding ②-f③-j④-k from ②-a③-b<br>5) Excluding ②-j③-k from ②-f<br>6) In the case of ⑤, excluding estimated tax liability upon confirmation reporting   |
| <b>⑥ Reduction of penalty tax</b>                        | i) In the case of reporting for correction within 6 months: penalty tax for underreporting and inflated refund reporting<br>ii) In the case of late reporting within 1 month: penalty tax for non-reporting<br>iii) In the case of late submission within 1 month: penalty tax for non business registration, for incorrect submission of aggregated tax invoice (on a place of sales basis) and for incorrect submission of bill) |
| <b>⑦ Penalty tax for incorrect reporting and payment</b> | Stipulated in national tax law   |

#### d. Collection

- (1) Where a trader has actually paid the tax amount which is less than the returned tax amount, the competent tax office should, in such a manner as is used for the collection of national tax, collect the unpaid tax amount, or in the case of adjustment or correction, the additional tax amount payable.
- (2) Where a trader has failed to file a preliminary return, or has filed an incorrect or incomplete return, the competent tax office may investigate and determine the tax base and tax amount and collect the tax amount due.
- (3) Collectors at customs houses collect value-added tax in such a manner as is used for the collection of customs duties.

#### e. Refund

- (1) Ordinary refund

The competent tax office refunds to a trader the tax amount refundable for each taxable period concerned based on each taxable period.

(2) Early refund

Where a trader falls under any of the following categories, the competent tax office may refund the tax amount refundable to the trader within 15 days from the ending date of the preliminary return:

- (a) In the case of zero-rate;
- (b) In the case where a trader newly establishes, acquires, expands, or extends the business facilities.

## **8. Simplified Taxation**

### **a. Individuals Eligible for Simplified Taxation**

VAT is chargeable on the basis of turnover for a trader whose gross turnover (or proceeds including VAT) of the supply of goods or services deriving from all his business places during the immediate preceding year is less than 80 million won (called "a trader eligible for simplified taxation"). However, a trader engaged in mining, manufacturing, professional business such as lawyers, accountants, entertainment business subject to individual consumption tax that is prescribed by Article 109(2)5 of Enforcement Decree of Value-Added Tax Act, wholesale, or real estate sales business shall be excluded from the range of a trader eligible for simplified taxation.

### **b. Tax Base and Tax Amount**

(1) Tax base: turnover during the taxable period

(2) Tax amount payable:

Tax amount payable = Aggregate amount of supply during the concerned taxable period × the rate of value-added as prescribed by the Presidential Decree for the category of business concerned (ranging from 5% through 50% based on calculated average rate of value-added for each category of business reported for the immediately preceding 3 years) × 10%

### **c. Tax Returns and Payment**

#### (1) Return and payment period

A person eligible for simplified taxation is required to file a return and pay the tax amount due within 25 days from the end of the taxable period concerned.

#### (2) Presentation of tax invoices

A person eligible for simplified taxation should at the time of each final return submit the received tax invoices or a schedule of summary of tax invoices classified by place of purchase to the competent tax office.

### **d. Adjustment and Collection**

(1) The tax base and tax amount payable of a person eligible for simplified taxation may be collected in the same manner as normal taxation.

(2) Regarding penalty tax and collection, penalty taxes related to tax invoice are not levied on. Additionally, penalty taxes for individual traders that fail to register are imposed an amount equivalent to 0.5% of VAT included consideration.

(3) Where the tax amount payable is less than 48 million won in a taxable period, the tax shall not be collected.

### **e. Waiver of Simplified Taxation**

A person eligible for simplified taxation may elect to be taxed in the normal way, and if so, he or she must make a report thereon to the competent tax office.

## Chapter VII: Individual Consumption Tax

### 1. Taxpayer

Any person who falls under one of the categories below is liable to Individual Consumption Tax.

- a. A person who manufactures or imports taxable goods (e.g. slot machines, luxury furniture/carpet, or oil products)
- b. Operators of such taxable places as horse race courses, bicycle race courses, slot machine clubs, golf courses, casinos, nightclubs, etc.

### 2. Tax Base

#### a. Tax Base

- (1) In the case taxable goods that are manufactured, the price or the volume at which the goods are taken out of the place of manufacture
- (2) In the case of importation, the price or the volume at the time of declaration (the sum of the customs value and the related customs duties levied thereon)
- (3) In the case of an admission to taxable places, the number of persons
- (4) In the case of the use of entertainment taverns or saloons, the amount of money charged
- (5) In the case of business operations in taxable place of business (casinos), gross annual sales amount (amount received from customers – amount paid)

From 2012, Kangwon Land Casino became the taxable place of business where (5) applies to.

\* Foreigners-only casinos will become the taxable place of business where (5) applies to from 2014.

- b. **Amounts of Individual Consumption Tax, Education Tax, and Value-Added Tax are not included in the tax base.**

### **3. Tax Rates**

#### **a. Taxable Goods**

(1) Class 1: 20%

- (a) Slot machines, pin-ball machines, and other similar recreational machines; and
- (b) Hunting guns or rifles

(2) Class 2: 20% (The tax rate of 20% is levied on the excess of the sales price over two million won)

- (a) Luxury watches
- (b) Luxury carpets
- (c) Luxury bags

(3) Class 3:

The tax rate of 20% is levied on the excess of the sales price over five million won (five million won per piece or eight million won per set in the case of luxury furniture):

- (a) Luxury fur skin and its products (excluding rabbit skin and raw fur skin)
- (b) Jewelry (excluding diamonds for industrial use, raw ore and loose stones, and unprocessed original stones), pearl, tortoise-shell, coral, amber, ivory, and the products made thereof (including loose stones)
- (c) Precious metal products
- (d) Luxury furniture

(4) Class 4:

- (a) Automobiles with engine displacement in excess of 2,000 cc and cars for camping: 5%
- (b) Automobiles with engine displacement of 2,000 cc or less (excluding those with engine displacement of 1,000 cc or less), and two-wheeled motorcycles with engine displacement in excess of 125 cc: 5%



(5) Class 5:

- (a) Kerosene: 90 won/ℓ (63 won/ℓ effective from July 1, 2014)
- (b) Heavy fuel oil: 17 won/ℓ
- (c) Propane gas: 20 won/kg (in case of propane gas for domestic and commercial use, 14 won/kg effective from July 1, 2014)
- (d) Butane gas: 275 won/kg (flexible rates: 275 won/kg)
- (e) Natural gas (including a liquefied form): 12 won/kg, provided that for a natural gas other than that for power generation purposes, 60 won/kg is applied (flexible rates of 42 won/kg).

(Integrated energy suppliers, new and renewable energy suppliers, persons setting up electric installations for private use: 8.4 won/kg

- (f) Bituminous coal for the purpose of generating electric power (effective from Feb. 2018):

49 won/kg applicable to net calorific value of 5,500 kcal/kg or more

46 won/kg applicable to net calorific value of not less than 5,000 kcal/kg and less than 5,500 kcal/kg

43 won/kg applicable to net calorific value of less than 5,000 kcal/kg

\* With regard to gasoline and diesel oil, not Individual Consumption Tax but Transportation·Energy·Environment Tax will be levied until the end of 2021.

(6) Class 6: 594 won per 20 cigarettes

**b. Taxable Places**

(1) Group 1:

The individual consumption tax rates on the following taxable places are:

- (a) Horse race park: 1,000 won per person (in the case of off-course betting centers, 2,000 won per person)
- (b) Slot machine places: 10,000 won per person

- (c) Golf courses: 12,000 won per person
- (d) Casinos: (Korean) 50,000 won per person, (Foreigner) 2,000 won per person
  - \*Gangweon Land Casino: (Korean) 6,300 won per person  
(Foreigner) free
  - \* Foreigners-only casinos: (Korean) Not admitted  
(Foreigner) free
- (e) Bicycle race park, Motorboat race park: 400 won per person(in the case of off-course betting centers, 800 won per person)

(2) Group 2:

Entertainment taverns or saloons, etc.: 10%

(3) Group 3:

Where gross annual sales from business operations in taxable place of business (casinos) is:

- (a) Less than 50 billion won: 0%
- (b) More than 50 billion won - 100 billion won: 2% to the amount exceeding 50 billion won)
- (c) More than 100 billion won: 1 billion won + (4% to the amount exceeding 100billion won)

#### 4. Tax Returns and Payment

- a. A taxpayer who takes taxable goods out of the place of manufacture shall file a tax return containing volume, price and tax base, amounts of unpaid tax or tax exemption, amounts of tax credit and refund, etc., by the 25<sup>th</sup> of the month following the quarter in which the taking out of the manufacture of the taxable goods takes place, and shall pay the tax amount due by that time (in the case of oil, by the end of the month following the month in which the taking out takes place).
- b. Where a taxpayer importing taxable goods has made an import declaration, he or she is regarded as complying with the obligation to file a tax return.

- c. Operators of taxable places of Group 1 shall file a tax return by the 25<sup>th</sup> of the month following the quarter in which a taxpayer uses the taxable place and pay the tax amount due by that time (in the case of Group 2, by the 25<sup>th</sup> of the month following the month; in the case of Group 3, by the end of the March following the year).

## **5. Non-Taxable Goods**

- (1) Goods directly manufactured by a person (excluding a corporation) for his or her own use or the use by his or her family member
- (2) Goods to which the simplified tariff are applicable under the Customs Law
- (3) Goods on which liquor tax is imposed
- (4) Goods confiscated under the Livestock Products Processing and Dealing Law, the Drugs, Cosmetics and Medical Instruments Law, or the Food Sanitation Law

### **a. Exemptions**

- (1) Exemption on exportation or supply to the military

Goods exported or supplied to foreign military forces stationed in Korea are exempt from Individual Consumption Tax upon application for exemption.

- (a) Where a taxpayer fails to prove the facts of exportation or supply to foreign military forces within the prescribed period, the Individual Consumption Tax is charged retroactively.
- (b) Where the goods exempted on the condition that they are supplied to foreign military forces are transferred to or held by other person within 5 years from the day of the approval for the exemption, the transferee or the holder is liable Individual Consumption Tax.

- (2) Exemption for diplomats

- (a) Goods imported or purchased from the manufacturer for official use by foreign diplomatic offices
- (b) Goods imported for the personal use by foreign diplomats, and their family members
- (c) Oil and its products used by the diplomatic offices stationed in Korea

(d) Where the exempted goods are transferred to or held by other persons within 3 years from the day of the approval for the exemption, the transferee or the holder is liable to Individual Consumption Tax

(3) Exemption for foreigners-only sales outlets

(a) Specific goods (e.g. jewelry, automobiles, etc.) for sale to non-residents or foreign diplomats at designated sales outlets exclusively used by foreigners

(b) Where a person who has acquired the tax exempt goods at the said sales outlets does not possess the goods at the time of departure from Korea, or where the tax exempt goods are in the hands of a person who does not qualify for the acquisition of goods at the said sales outlet, the Individual Consumption Tax due is assessed retroactively.

(4) Conditional exemption

When the conditions required for exemption are not satisfied, the Individual Consumption Tax is assessed retroactively.

(a) Goods used for the production of atomic energy or an isotope, or for the development of atomic reactor pile

(b) Jewelry for industrial or experimental use

(c) Automobiles purchased by disabled persons (tax exemption is allowed for only one automobile per disabled person, regardless of the size of engine displacement driven by a disabled person or others living with him), and automobiles used exclusively for the purpose of transportation of patients and rental business purpose (automobiles which have been rented to the same person or corporation for a period or periods exceeding 1 year within 5 years from the time of purchase are excluded), passenger vehicles imported and used for the purpose of test or research to develop new products or new technologies by R&D center or a department of a corporation

(d) Goods donated from foreign countries to charity or relief organizations

(e) Goods donated from foreign countries for religious services

(f) Sample goods or reference goods used at schools, nursery schools, museums or other display places

- (g) Goods donated from foreign countries to an academic or educational institution for academic research or educational purposes
  - (h) Duty-exempt goods taken out of a bonded area to be re-exported
  - (i) Oil and its products used for aircraft, deep sea fishing vessels, or vessels in international navigation
  - (j) Oil for medical use, manufacture of medical goods, fertilizers, agricultural chemicals, or raw materials for the petrochemical industry
  - (k) Articles of consumption to be used in foreign trade vessels, deep sea fishing vessels or aircraft used in international traffic, other than fuel
  - (l) Luxurycameras for the purposes of broadcasting, newspaper reports, communication, school education, or nursery school education
  - (m) Flaming coal not used for the purpose of electricity generation business under the paragraph 3 of Article 2 of the Electric Utility Act
- (5) Unconditional exemption
- (a) Goods donated to a foreign charity or relief organization
  - (b) Decorations or other similar articles and letters of commendation conferred from foreign countries
  - (c) Official goods sent by Korean embassies abroad or from military ships in foreign navigation
  - (d) Containers of export goods that are re-imported
  - (e) Goods donated to the government, or local authorities
  - (f) Goods imported for military aid purpose or munitions made from such goods
  - (g) Duty exempt personal effects personally carried by or separately imported goods of a person who enters Korea
  - (h) Duty exempt goods of a small sum donated to residents
  - (i) Duty exempt commercial samples or advertisement goods imported from abroad

- (j) Goods carried out for display at foreign exhibition grounds
- (k) Re-imported goods on which individual consumption tax was imposed and credit or refund was not granted thereon
- (l) Goods to be used for the secret service of the chief of state

## **6. Tax Credits and Refund**

### **a. Tax Credits**

Where goods or raw materials on which the Individual Consumption Tax was charged or is chargeable come under one of the following categories, the tax charged or chargeable is credited against the concerned tax amount payable.

- (1) Taxable goods are delivered from a manufacturer or bonded area and are directly used for the manufacture or processing of other taxable goods
- (2) Taxable goods which were delivered from a manufacturer or bonded area, are carried out after some additional work done to them

### **b. Refund**

Where goods or raw materials on which individual consumption tax was charged or is chargeable come under one of the following categories, the paid tax amount is refundable or deductible.

- (1) Taxable goods or their products exported or supplied to foreign military stationed in Korea
- (2) Goods that are exempt from individual consumption tax and goods used as raw materials for such goods
- (3) Taxable goods returned to the manufacturing site (excluding used articles, but including ones returned by exchange and refund under the Consumer Protection Law)

**c. Miscellaneous Rule**

- (1) In the case where the Individual Consumption Tax is collected with respect to the goods for which the conditions for exemption are not satisfied, the tax amount paid or payable on the raw materials of the said goods is not creditable or refundable.
- (2) Penalty taxes chargeable on the goods subject to Individual Consumption Tax are not creditable or refundable.

## Chapter VIII: Liquor Tax

### 1. Taxpayer

- a. Manufacturers of liquor and persons taking over liquor from a bonded area are liable to liquor tax on the liquor carried out of the manufacturing premises or taken out of the bonded area.
- b. A person who intends to manufacture or sell liquor must get a manufacturing license or a selling license from the government.

### 2. Tax Base

- a. Spirits (alcohol content 85% or more), beer, takju (cloudy rice wine): the volume of liquor carried out of the brewery or taken out of a bonded area
- b. Liquor other than spirits: the price of liquor carried out of the brewery or taken out of a bonded area

### 3. Tax Rates

#### a. Spirits (specific tax system)

57,000 won per *kl* (600 won is added for every additional 1% which exceeds 95% of alcohol content)

(1) Beer: 830,300 won per *kl* before the end of February 2021, provided that products sold in 8 liters or more of a container with a separate brewing machine attached thereto is subject to 80/100 of the existing beer taxes until December 31, 2021 with the taxable amount less than 100 won rounded down.

(2) Takju (cloudy rice wine): 41,700 per *kl* before the end of February 2021.

#### b. Other Liquor (ad valorem tax system)

(1) Fermented Liquor

(a) Fruit wine 30%

(b) Yakju (clear rice wine) 30%



(c) Cheongju (Korean sake) 30%

(2) Distilled Liquor

(a) Soju 72%

(b) Whisky 72%

(c) Brandy 72%

(d) General distilled liquor 72%

(3) Liqueur 72%

(4) Other liquors

(a) Liquors made by fermenting method other than fermented liquor: 30%

(b) Liquors, except distilled liquor mixed with the fermented method and neutral spirits or distilled liquor: 72%

(5) Inflation-linked taxation: tax rates for Takju and beer released from breweries for sale or declared for import after March 1, 2021 are determined by applying the following calculation formula every year in accordance with the Presidential Decree, provided that the taxable amount less than 100 won is rounded down.

Tax rate: Base rate as of December 31 in the previous year  $\times$  (1 + increase rate of consumer prices in the previous year, which is announced by Commissioner of Statistics Korea in accordance with Article 3 of Statistics Act)

#### 4. Tax Returns and Payment

- a. A liquor manufacturer who carries liquor out of the manufacturing premises must file a return including the type of liquor, the degree of alcohol contained, the quantity, the price, the tax rate, the calculated amount of tax,

the amount of tax to be credited or refunded, and the tax amount due on a quarterly basis to the head of the district tax office having jurisdiction over the place of tax payment by 25<sup>th</sup> of the month following the quarter in which the liquor is carried out of the manufacturing premises.

- b. With respect to liquor taken out of a bonded area, the return must be filed and the recipient must pay the tax at the time of takeover.
- c. Where the return has not been filed, or the contents or filed return are not proper, the government will determine the tax base and the tax amount due.

## **5. Exemptions**

The following items of liquor are exempt from liquor tax:

- a. Liquor to be exported
- b. Liquor supplied to foreign military forces stationed in Korea
- c. Liquor supplied to Korean forces stationed abroad
- d. Liquor supplied to foreign diplomatic missions in Korea
- e. Liquor supplied to lounges for foreign crews
- f. Liquor imported by foreign diplomatic missions for official use and by diplomatic officials for self-use
- g. Liquor presented from a foreign country for ceremonial use by temples, churches, and other religious institutions
- h. Liquor collected for the purpose of examination according to the Liquor Tax Law or the Food Sanitation Law
- i. Liquor carried by tourists and exempted from customs duties
- j. Liquor used for the purpose of public release of the intangible cultural asset and manufactured by an artisan whose manufacturing method is designated as a national intangible cultural asset by the Cultural Properties Protection

Law

- k.** Liquor used for the material for medicine according to the Pharmaceutical Affairs Act

## Chapter IX: Stamp Tax

### 1. Taxpayer

- a. Stamp tax is levied on a person who prepares a document certifying establishment, transfer, or change of rights to property in Korea.
- b. In the case where two or more persons jointly prepare a document, they are jointly and severally liable to pay stamp tax on the document concerned.

### 2. Taxable Documents and Tax Amount

| Taxable document  | Value stated on the deed | Tax amount |
|---|--------------------------|------------|
| 1. A deed of contract concerning the transfer of the ownership of real estate, vessel, aircraft, or business                |                          |            |
| 2. A deed of contract concerning loans for consumption  |                          |            |
| 3. A deed of contract concerning contract for work  |                          |            |
| 4. A deed concerning the transfer of mining rights, intangible property right, fishing right, copyright, or firm name right |                          |            |
| 5. A deed concerning rights of usable facilities (Golf and condominium membership cards)                                    |                          |            |
| 6. A deed concerning the transfer of registered movable property (car, heavy machinery, vessel)                             | N/A                      | 3,000 won  |
| 7. A deed concerning transactions conducted on a continuous/ repetitive basis   | N/A                      | 300 won    |
| a. an application form for a  |                          |            |

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|--|--|--|
| credit card<br>b. an application form for credit card merchant   |  | 300won                                 |
| 8. A gift voucher(excluding mobile voucher), prepaid card  | 10,000won<br>10,000 – 50,000 won<br>50,000 – 100,000 won<br>Over 100,000 won | 50 won<br>200won<br>400 won<br>800 won |
| 9. A share certificate, bond, investment certificate, beneficiary certificate  | N/A  | 400 won                                |
| 8-2. A mobile voucher(excluding sales canceled within 7 days from the date of sale and refunded and discarded in full)   | 50,000 – 100,000 won<br>Over 100,000 won                                     | 400 won<br>800 won                     |
| 10. A deposit or savings certificate or passbook, repurchase agreement, insurance policy and trust certificate or passbook   | N/A  | 100 won                                |
| 11. A deed of contract concerning lease or deferred payment sale   | N/A  | 10,000 won                             |
| 12. A deed concerning guarantee of an obligation:<br>a. A deed issued by a bank<br>b. A deed issued by the Credit Guarantee Fund<br>c. A Deed issued by an insurer | N/A  | 10,000 won<br>1,000 won<br>200 won     |

\* Stamp tax is levied on a copy of deed basis or on a per volume of passbook basis.

### 3. Payment

A taxpayer preparing a taxable document shall pay stamp tax by putting a stamp on the document. However, the commissioner of Korean Intellectual Property

Office (KIPO) has the authority to collect and pay stamp tax on the transfer of intellectual property right such as a patent right, utility model right, design right or trademark right.

In the case of taxable documents prepared on a continuous/repetitive basis, the director of the tax office concerned may permit the taxpayer to pay the tax in cash by the tenth day of the month following the month in which the document is prepared, if the taxpayer applies for such payment method.

#### **4. Non-Taxable Documents**

- a. A document prepared by the government or local authorities
- b. A document prepared with respect to the treatment of national funds
- c. A document submitted to the government or local authorities with respect to a donation for public works
- d. A document prepared by charity or relief organizations with respect to their businesses
- e. A deed of contract concerning the ownership of a residential house with a stated amount of 100 million won or less
- f. A certificate of acceptance or guarantee of a bill
- g. A copy or transcript of negotiable securities
- h. A deed of contract concerning loans for consumption with a stated amount of 50 million won or less
- i. A deed concerning things only for mail in accordance with the Postal Service Act
- j. A certificate required and prepared for the procedure of a transfer for a Public Works Project, where a land or other property is transferred to the government, a local authority, etc.

- k. A currency stabilization bond issued by the Bank of Korea
- 1. A bond issued by an international financial institution and deed prepared with respect to the issuance of such bond

#### **5. Penalty Tax**

If a taxpayer did not pay the stamp tax due or the paid amount is less than the due amount, an amount equivalent to 300% of the outstanding tax amount is charged as penalty tax.

## **Chapter X: Securities Transaction Tax**

### **1. Taxpayer**

- a. Korea Securities Depository
- b. Financial investment business entity
- c. Alienator of securities. Provided, that where a non-resident or foreign corporation that does not have any place of business in Korea transfers share certificates, etc., not through any financial investment business operator, the transferee of such share certificates, etc. shall be the taxpayer.

### **2. Taxable securities or interests**

Securities Transaction Tax (STT) is imposed on the transfer of stocks of a corporation established under the Commercial Code or any special law, or on the transfer of interest in an unlimited partnership, limited partnership, limited liability company, or limited company established under the Commercial Code. However, the transfer of stocks listed on overseas stock exchanges such as the NYSE, the NASDAQ, the Tokyo Stock Exchange, the London Stock Exchange, the Deutsche Boerse AG, the Euronet Stock Exchange, the Singapore Exchange Limited and foreign stock exchanges similar to the above-mentioned stock exchanges are not be subject to STT.

### **3. Tax Base**

Total value of securities at the time of alienation

### **4. Tax Rates**

- a. General: 0.43%
- b. Temporary tax rates may be applied to stocks listed on the Securities Market of the Korea Exchange, if deemed necessary to boost the capital market. (Applicable temporary rates: 0.08% for the Securities Market-listed, 0.23% for the KOSDAQ-listed, 0.1% for KONEX-listed, 0.23% for K-OTC-listed)



## **5. Collection at Transaction**

The Korea Securities Depository, financial investment business entity and transferee are required to collect tax at the time of transaction. The tax amount to be collected is computed by multiplying the tax base by the tax rate.

## **6. Tax Returns and Payment**

- a.** Taxpayers a and b shall file tax returns and pay taxes to the tax office, the bank of Korea, post office by the 10th day of the month following the month in which the transaction takes place.
- b.** Taxpayer c shall file tax returns and pay taxes to the tax office, the bank of Korea, post office within two months following the last day of the half-year in which the transaction takes place.

### *Part 3: National Taxes - Earmarked Taxes*

## **Chapter XI: Transportation·Energy·Environment Tax**

### **1. Taxpayer**

Any person falling under one of the following categories is liable to Transportation·Energy·Environment Tax.

- a. A person who produces gasoline & similar alternative oil, and diesel oil & similar alternative oil
- b. A person who imports gasoline& similar alternative oil, and diesel oil& similar alternative oil

### **2. Tax Base and Tax Rates**

- a. Gasoline and similar alternative oil: 475 won/ℓ
- b. Diesel oil and similar alternative oil: 340 won/ℓ

\* Flexible rates are specified in the Presidential Decree. Actual rates are 529 won/ℓ for gasoline and 375 won/ℓ for diesel oil.

### **3. Tax Returns and Payment**

- a. A person who manufactures and transports taxable goods from the manufacturing premises shall file a return which includes the volume and price of transaction, calculated tax amount, amount of unpaid tax or tax exemption, amount of tax credit and refund, tax amount payable, etc., by the end of the following month with the government, and pay a monthly tax due by the deadline to file the return.
- b. When a person transports taxable goods out of a bonded area and makes an import declaration, he or she shall be regarded as complying with the obligation to file a return. In that case, he or she should pay the Transportation·Energy·Environment Tax along with the customs duties at the time of the import declaration.

- c. With respect to goods subject to customs duties other than imported goods, the provisions of the Customs Law are applicable *mutatis mutandis*.

#### **4. Exemptions**

##### **a. Exemption on Exportation or Supply to the Military**

Goods exported or supplied to foreign military forces stationed in Korea are exempt from Transportation·Energy·Environment Tax upon application for exemption.

- (1) In the case where a taxpayer fails to prove the facts of exportation or the facts of supply to foreign military forces within the prescribed period, Transportation·Energy·Environment Tax is charged retroactively.
- (2) In the case where the goods exempted on the condition that they are supplied to foreign military forces stationed in Korea are transferred to other person, the transferee is liable to Transportation·Energy·Environment Tax.

##### **b. Exemption for Diplomats:**

Goods being used by foreign diplomatic offices, etc. are exempt from Transportation·Energy·Environment Tax.

##### **c. Conditional Exemption**

When the conditions required for exemption are not satisfied, the Transportation·Energy·Environment Tax is assessed retroactively.

- (1) Goods donated by foreign countries to a charity or relief organization
- (2) Duty-free goods taken out of a bonded area that are to be re-exported
- (3) Commodity goods to be used abroad in vessels, deep sea fishing vessels, or aircraft
- (4) Articles for medical care or manufacture of medical goods, fertilizers, or petrochemicals

#### **d. Unconditional Exemption**

- (1) Goods donated to a foreign charity or relief organization
- (2) Goods donated to the government or local authorities
- (3) Goods imported for military aid purpose or munitions made from such goods
- (4) Re-imported goods on which the Transportation·Energy·Environment Tax was imposed and credit or refund was not granted thereon

### **5. Tax Credits and Refund**

#### **a. Tax Credits**

In the case where goods or raw materials on which the Transportation·Energy·Environment Tax was or will be charged, are taken out from the manufacturing premise or the bonded area, and are directly used for manufacturing or processing of other taxable goods, the tax charged or to be charged on the goods or raw materials is credited against the tax amount payable on the taxable goods concerned.

#### **b. Refund**

In the case where goods or raw materials on which the Transportation·Energy·Environment Tax was or will be charged fall under one of the following categories, the paid tax amount is refundable or deductible.

- (1) Where the taxable goods or products manufactured with the use of such taxable goods are exported or supplied to foreign military forces stationed in Korea
- (2) Where goods made of taxable raw materials are exempted from Transportation·Energy·Environment Tax
- (3) Where the taxable goods are returned

- (4) Where the taxable goods are used for medical care, for the manufacture of medicines or fertilizers, for aircraft, vessels in foreign navigation, deep sea fishing vessels, or by foreign diplomatic corps or similar organizations

**c. Miscellaneous Rule**

- (1) Where the Transportation·Energy·Environment Taxes collected with respect to the goods, which do not fulfill the conditions for exemption, the tax amount paid or payable on the raw materials of the said goods shall not be credited or refunded.
- (2) Tax penalties chargeable on the goods subject to the Transportation·Energy·Environment Tax shall not be credited or refunded.

## Chapter XII: Education Tax

### 1. Taxpayer

- a. Persons engaged in banking and insurance businesses in Korea
- b. Taxpayers of individual consumption tax pursuant to the Individual Consumption Tax Law (excluding those who pay individual consumption tax on LPG, petroleum, diesel oil, and LNG)
- c. Taxpayers of Transportation·Energy·Environment Tax pursuant to the Transportation·Energy·Environment Tax Law
- d. Taxpayers of liquor tax excluding spirits, "Takju", and "Yakju"

### 2. Non-Taxable Income

Concerning the banking and insurance businesses, profits from property placed in trust for public welfare shall not be liable to education tax.

### 3. Tax Base and Tax Rates

| Taxpayer  | Tax base   | Rate  |
|---|--|---|
| Banking and insurance business                    | Gross receipts   | 0.5%  |
| Taxpayer of individual consumption tax            | Individual consumption tax amount payable pursuant to the Individual Consumption Tax Law                       | 30% (15% in the case of kerosene, heavy oil, butane or LPG, heavy end, and C9 <sup>+</sup> )                  |
| Taxpayer of transportation·energy·environment Tax | Transportation·energy·environment tax amount payable pursuant to the Transportation·Energy·Environment Tax Law | 15%   |
| Taxpayer of liquor tax                            | Liquor tax amount payable pursuant to the Liquor Tax Law   | 10%, provided that for any of the following, 30% is applied:<br><br>A. Beer specified in Article 8(2)2(d) and |

|  |  |  |
|--|--|--|
|  |  | <p>Article 8(3) of Liquor Tax Act;</p> <p>B. Distilled alcoholic beverages under Article 8(2)2;</p> <p>C. Alcoholic beverages under Article 8(2)3(a), provided those laid out in the proviso thereto are excluded.</p> |
|--|--|--|

\* The tax rates illustrated above may be adjusted within 30% of each rate if needed to raise funds for investment in education.

- a. Regarding banking and insurance businesses, the education tax payable in relation to the share of gross receipts from swap transaction with the Bank of Korea shall not exceed the net income amount
- b. Regarding banking and insurance businesses, gross receipts consist of the following amounts received within Korea:
  - (1) Discount income
  - (2) Commissions and dividends
  - (3) Trust fees
  - (4) Rent
  - (5) The sum of the followings:
    - (a) Profits or losses on monetary assets and liabilities denominated in foreign currency in accordance with Article 76(1) and (2) of Enforcement Decree of the Corporate Tax Act
    - (b) Aggregated profits and losses of transactions of derivatives, etc.
  - (6) Rent earned
  - (7) Disposal value of fixed assets
  - (8) Other operating or non-operating revenue

**4. Tax Returns and Payment**

**a. With regard to the Taxpayers Described in 1a**

Taxpayers shall file education tax returns with and pay the tax to the district tax office concerned by the due date as specified below:

|                    | <b>Taxable Period</b>  | <b>Due Date</b>  |
|--------------------|--|--|
| <b>Corporation</b> | The business year provided for in Article 6 of the Corporate Tax Act | Within three months following the last day of the month to which the end of the taxable period belongs |
| <b>Individual</b>  | The taxable period provided for in Article 5 of the Income Tax Act   |  |

Taxpayers shall pay the amount computed by multiplying three by the amount computed by dividing the amount of tax determined as education tax for the immediately preceding taxable period by the number of months in that taxable period within the following interim pre-payment period (the tax amount paid in advance shall be creditable against the calculated tax amount):

|                   | <b>Interim Pre-payment Period</b>  | <b>Due Date</b>   |
|-------------------|--|---|
| <b>1st Period</b> | The first three months after the end of the immediately preceding taxable period | Within two months after the end of the interim pre-payment period |
| <b>2nd Period</b> | Three months after the end of the 1st interim pre-payment period                 | Within two months after the end of the interim pre-payment period |
| <b>3rd Period</b> | Three months after the end of the 2 <sup>nd</sup> interim pre-payment period     | Within two months after the end of the interim pre-payment period |

**b. With regard to the Taxpayers Described in 1b, 1c and 1d**



When taxpayers declare and pay an amount of individual consumption tax, transportation·energy·environment tax, or liquor tax, as the case may be, they shall also declare and pay education tax thereon.

## **5. Determination and Collection**

### **a. With regard to 4a**

- (1) The government will correct the tax base and the tax amount if there are any omissions or errors on the return filed.
- (2) When education tax is not paid or is partially paid, the government shall collect the unpaid tax immediately.

### **b. With regard to 4b**

Education tax on the individual consumption tax amount, transportation·energy·environment tax amount, or the liquor tax amount is assessed and collected according to the Individual Consumption Tax Law, the Transportation·Energy·Environment Tax Law or the Liquor Tax Law., as the case may be.

## **6. Non-Inclusion of the Education Tax Amount in Losses or Necessary Expenses**

The education tax assessed on the tax amount not included in losses or necessary expenses under the provisions of the Income Tax Law or Corporation Tax Law is not included in losses or necessary expenses in the calculation of the income amount for the purpose of income tax or corporation tax.

## **Chapter XIII: Special Tax for Rural Development**

### **1. Objective of Special Tax for Rural Development (STRD)**

The objective of the Special Tax for Rural Development (STRD) is to support the rural community and the agricultural and fisheries industry. As a result of the UR negotiations, the farming industry in Korea is subject to market opening. Due to the low productivity of the Korean agricultural industry, the government enacted the Special Tax for Rural Development in July 1994 in order to raise funds for various rural development programs.

### **2. Taxpayer**

- a. An individual or a corporation whose tax liability (individual income tax, corporation tax, customs duty, acquisition tax, or registration tax) is reduced under the Special Tax Treatment Control Law (STTCL), the Local Tax Law, or the Customs Law
- b. Taxpayers of certain categories of individual consumption tax
- c. Taxpayers of securities transactions tax
- d. Taxpayers of acquisition tax, and leisure tax
- e. Taxpayers of comprehensive real estate holding tax

### **3. Tax Base and Tax Rates**

Basically, the STRD is a surtax levied on the exempted amount of corporation tax, individual income tax, customs duty, individual consumption tax, and securities transaction tax. The tax base of STRD is the exempted amount of the above-mentioned taxes, where the exemptions are stipulated in the STTCL, the Local Tax Law, or the Customs Law. Therefore, the exemptions of the above mentioned taxes which are stipulated in the Corporation Tax Law, Income Tax Law, or Foreign Investment Promotion Law are not part of the tax base of STRD.

| <b>Tax base</b>   | <b>Tax rate</b> | <b>Remarks</b>   |
|---|-----------------|--|
| The exempted amount of corporation tax, individual income tax, customs duties, acquisition tax, and registration tax under the STTCL, the Local Tax Law and the Customs Law | 20%             | Except for tax reduction for development of technology, public projects, etc.  |
| The exempted amount of income tax in relation with interest and dividend income under the STTCL   | 10%             |  |
| The transfer price of listed stocks   | 0.15%           |  |
| Individual consumption tax payable  | 10%             | Admission to golf courses: 30%   |
| Acquisition tax payable   | 10%             | Except for small houses or farmhouses<br>*STRD surcharged on auto acquisition tax repealed effective January 1, 1999 |
| Comprehensive real estate holding tax payable   | 20%             |  |
| Leisure tax payable   | 20%             |  |

#### 4. Effective Period

The STRD took effect on July 1, 1994. The limitation period has continued to be extended every 10 years after the STRD first took effect and it is scheduled to end on June 30, 2024.

## **5. Non-Taxation**

- a.** Tax reductions and exemptions granted to the government (including foreign governments), local authorities and the association of local authorities
- b.** Acquisition tax reduction for houses of low-income families and farmhouses prescribed by the Presidential Decree
- c.** Customs duty reduction under international conventions, international practices, etc. prescribed by the Presidential Decree

*Part 4: Tax Payment, Collection & Disputes*

**Chapter XIV: Payment, Collection & Disputes**

**1. Payment of National Taxes**

**a. Range of tax rates**

Under the Korean tax law, the tax rates applied to different types of tax are broadly classified into proportional and progressive rates. Proportional tax rates are further divided into regular and differential proportional rates. Regular proportional rates are applied to value-added tax (10%). On the other hand, differential proportional tax rates are levied on securities transaction tax, special consumption tax, liquor tax, and transportation·energy·environment tax.

Corporation tax, income tax, and inheritance & gift tax are subject to progressive tax rates, varying upon the tax bracket. For instance, progressive tax rates imposed upon corporation tax are 10% for the amount of 200 million won or less, 20% for the amount between 200 million won and 20 billion won, 22% for the amount between 20 billion won and 300 billion won, and 25% for the amount exceeding 300 billion won. Individual income is divided into 5 tax brackets and is subject to tax rates ranging from 6% to 42%. Taxable amounts in the inheritance & gift tax are divided into 5 tax brackets and are subject to tax rates between 10% and 50%.

**b. Occurrence of tax liability**

Certain taxes such as income tax, corporation tax, and value-added tax are established at the end of a taxable period, as prescribed in provisions of the tax law. On the other hand, liability on inheritance tax is established when there is a bequest. Liability on gift tax is established when property is acquired through a gift.

With respect to special consumption tax, liquor tax, and transportation·energy·environment tax, an obligation of tax payment occurs when the taxable goods leave the factory or are sold, and in the case of imported goods, when they are declared for importation at customs. Liability on stamp tax is

established when taxable documents are drafted, and in the case of securities transaction tax, when transactions are confirmed.

Finally, liabilities on earmarked taxes such as education tax and special tax for rural development are established at the same time as when their principal taxes are due.

### **c. Different assessment methods**

The present tax collection system in Korea uses three separate methods: the self-assessment method, the official assessment method, and the special collection method.

Under the self-assessment method, taxpayers themselves assume the primary responsibility for calculation of the tax base and the amount of tax, filing a tax return based upon their calculation and paying the tax due. The tax authorities, however, reserve the right to adjust taxpayers' returns with correction notices. When a taxpayer fails to file a tax return, the tax authorities send by notification the tax base and the amount of tax payable. The self-assessment method is applied to income tax, corporation tax, value-added tax, individual consumption tax, liquor tax, transportation·energy·environment tax, securities transaction tax, and local tax (acquisition tax).

On the other hand, the official assessment method is applicable to inheritance & gift tax, comprehensive real estate tax, and local tax (property tax). Under this system, the government determines the tax base and the amount of tax due, and issues a notice requiring the taxpayer for the tax payment. Tax file returns are regarded as information different from that used under the self-assessment method.

Finally, the special collection method applies to stamp tax; portions of income tax and corporation tax are subject to withholding tax, and income tax collected by certain taxpayer associations and portions of corporation tax are subject to estimated prepayment.

## **2. Collection of National Taxes**

National taxes are collected in accordance with the National Tax Collection Law, with the objective of securing tax revenue in a predictable manner. The principles of the National Tax Collection Law may also be applied to the compulsory collection of local taxes and other public charges. The Framework Law on National Taxes and other tax laws take precedence over the National Tax Collection Law containing general provisions and procedural regulations.

### **a. Procedure for Mandatory Collection of Delinquent Taxes**

When a taxpayer fails to pay tax of the tax return, or the amount of adjustment or determination by the due date, the tax authorities must collect delinquent taxes in accordance with the National Tax Collection Law.

#### **(1) The primary and secondary notice**

Primary and secondary notice of demand requiring payment within the specified time period prescribed by the Framework Law on National Taxes is sent by the director of the tax office exercising jurisdiction over the taxpayer when a taxpayer fails to pay tax in full by the due date.

#### **(2) Attachment**

If a taxpayer fails to pay the tax due within the date specified on the notice, the tax authorities have the right to attach the taxpayer's property. Attached property is classified into four categories and different procedures for each category are provided: (1) movable property and securities, (2) immovable property, (3) claims, and (4) other property rights.

#### **(3) Request for share distribution**

If the property of a delinquent taxpayer is sold at a public auction, or in connection with bankruptcy liquidation procedures, the tax authorities may claim a share of the proceeds distributed from the sale.

#### **(4) Sale of property**

In principle, the attached property is sold publicly by way of tender or auction. The tax authorities publicly notify the property to be sold at least

ten days before the date of sale, notifying the delinquent taxpayer and other parties interested in the public sale.

(5) Distribution of proceeds

The proceeds of the property sold are appropriated in order of priority among (1) delinquent taxes for which the property was attached to, (2) other delinquent taxes or public charges for which a share of the distribution was requested, and (3) to creditors with secured private claims on the private property. The remaining proceeds go to the delinquent taxpayer.

### **3. Tax Disputes**

#### **a. Procedures to Be Followed**

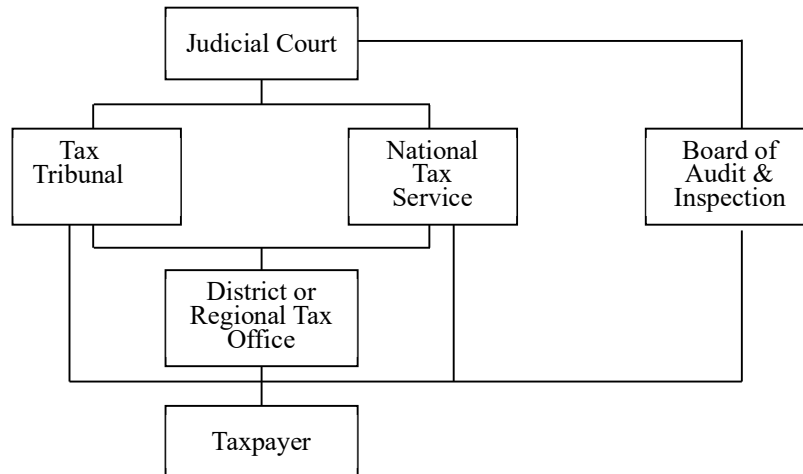
If a taxpayer believes that certain actions taken by the tax authorities are in violation of the existing tax law, he or she may appeal to the head of a regional or district tax office within 90 days from the date of receiving notice. On receiving a complaint from a taxpayer, the regional or district tax office shall issue a ruling within 30 days, provided that where the taxpayer remonstrates about the statement of opinion from the regional or district tax office made on an objection filed by the taxpayer, the regional or district tax office shall issue a ruling within 60 days. The taxpayer or anyone who guarantees payment of taxes may initiate the legal process of the appeal.

If a taxpayer is not satisfied with an assessment made by the head of a regional or district tax office, they may appeal to the National Tax Service or the Tax Tribunal within 90 days of receiving a written notice from the regional or district tax office. The National Tax Service will make a decision on the case within 90 days. However, taxpayers have an option to appeal directly to the National Tax Service. The Tax Tribunal will issue its decision within 90 days. If the taxpayer is still unsatisfied with the decision rendered by the National Tax Service or the Tax Tribunal, he or she may take the case before the judicial court for the final decision.

Before taking the case to judicial court, reinvestigation of the case by the Board of Audit & Inspection may be elected by the discontented taxpayer within 90 days from the date of receipt of a written notice from the regional or district tax office instead. The Board of Audit & Inspection will issue a ruling within 3 months. If a taxpayer is still not satisfied with the decision rendered by the Board of Audit & Inspection, he or she may then take the case to judicial court. (See the chart of procedures on tax disputes).



### <Procedures on Tax Disputes>



\* A decision should be made to appeal to the higher authorities within 90 days.

## 4. Penalties on National Taxes

### a. Penalties for Failure to Meet Tax Obligations

Penalties are issued in both administrative and judicial forms if taxpayers, without a reasonable excuse, fail to meet their tax obligations by, for example, neglecting to file a tax return in accordance with the tax laws or by submitting an incorrect tax return by omitting any taxable items.

A reasonable excuse, which justifies a deferral of tax payment, includes the case where a taxpayer incurs serious losses from his or her business. In this case, tax may be deferred with the permission from the head of a district tax office and with collateral worth 120% of the tax amount overdue (110% in the case where the collateral is cash, an insurance policy that guarantees the tax payment or a guarantee written by a bank).

In addition, the Framework Law on National Taxes stipulates that taxes eligible for self-assessment and those withheld at source may be deferred for up to 9 months. The National Tax Collection Law (NTCL) provides for the deferral of tax amount overdue after receiving the primary and secondary notice from a district tax office. The NTCL also allows for a delay of the disposal of attached

property, when the tax amount overdue is likely to be collected in the near future. More specifically, if there is a firm conviction that the overdue amount will be paid, then the business is allowed to continue by delaying the attachment of the property. The taxpayer may make payments of the overdue amount in installments and may delay the attachment of property or the disposal of attached property for up to one year.

The administrative penalty is a sanction taken against default such as a failure to file a tax return or a filing of an incorrect tax return. The purpose of imposing additional tax is to ensure the compliance of taxpayers with the existing tax laws and regulations. In such cases, the primary fine of 3% of the original tax amount due and is levied on the defaulting taxpayer. In addition, a secondary fine equivalent to 0.025% of the overdue amount is charged on a daily basis, starting from the due date in the primary notice. Fines are imposed in accordance with the NTCL.

#### **b. Judicial Penalty against Tax Crimes**

Another sanction is the judicial penalty imposed against tax crimes in connection with the assessment and collection of tax. The grounds for such penalties as well as their extent are stipulated in the Punishment of Tax Evaders Law and Procedure for the Punishment of Tax Evaders Law, respectively. The major feature of judicial penalties imposed against tax crimes is that certain tax criminals may be subject to both imprisonment and fines. A tax administrator must file charges in order to punish tax criminals.

With respect to legal punishment against tax crimes, people who commit tax crimes and other wrong doings are subject to imprisonment of up to two years, or fines imposed of up to two times the amount evaded. Provided, in the case where the amount is 300million won or more and more than 30% of the tax amount to be paid, or is 500million won or more, he/she is subject to imprisonment of up to 3 years, or fines imposed of up to three times of the amount evaded.

Those who commit these tax crimes habitually are subject to an additional punishment equivalent to 1/2 of the punishment provided by the relevant law. And those who destroy bookkeeping records or conceal them are subject to imprisonment of up to two years or a fine up to 20,000,000 won.

In the case where a high-income professional does not issue cash receipt in the transaction of 100,000 won or more, penalty equivalent to 20% of the

transaction amount not issued to the person may be levied on.

When tax officials or administrators receive bribery related to their works, they may be subject to an additional penalty equivalent to less than 5 times of the amount of bribery. In addition, director of district tax office imposes fines of two to five times the bribery amount on a person who gives the bribery to such tax officials or administrators.

Oil dealers who evade taxes by using or selling tax-exempt oils on other purposes besides designated ones are subject to the imprisonment of up to 3 years, or fines imposed of up to five times as much as the amount of tax evaded. Moreover, those who manufacture similar petroleum products to evade tax are subject to the imprisonment of up to 5 years, or fines imposed of up to five times the amount of tax evaded.

## *Part 5: Tax Incentives*

### **Chapter XV: The Special Tax Treatment Control Law**

Tax incentives aimed at achieving specific national economic objectives were mainly provided for under the Tax Exemption and Reduction Control Law (TERCL) and the Foreign Investment Promotion Law (FIPL) until the enactment of the Special Tax Treatment Control Law (STTCL) on January 1, 1999. Tax incentive provisions for FDI in the FIPL were subsumed into the STTCL as of May 24, 1999.

One important aim of the consolidation of the tax incentive systems under the STTCL is to significantly rationalize tax deferrals, credits, and exemptions granted to a wide range of taxes, by making all tax incentives covered by the STTCL subject to sunset rules. Here, most incentives expire automatically within one to five years unless they are extended.

The major purpose of STTCL is to impose taxes fairly and to implement tax policies effectively by through provisions on tax exemptions and restrictions of such benefits with an ultimate view of contributing to development of the sound economy.

\* The following explains major special tax treatments under the STTCL and does not include all special tax treatments. Please refer to the STTCL for detailed information about each special tax treatment and its limitation.

#### **1. Small and Medium-Sized Enterprises**

##### **a. Tax Incentives for Newly Established SMEs (STTCL §6, due to expire on Dec. 31, 2021)**

When new SMEs are established in areas other than the Seoul metropolitan area or its adjacent areas in order to operate businesses such as mining, manufacturing, construction, restaurant, publishing, video and audio documentary production and distribution (excluding video watching room operation business), broadcasting, telecommunications, computer programming, system integration and management, information service (excluding business providing news and brokering crypto-currency), research and development, advertising, other scientific technology service, service business related to creation and art (excluding self-supporting artists), specialized design services, engineering, logistics, business running private institutes teaching vocational technique, tourist accommodation, international conference, amusement facilities, and tourist facilities, business running welfare facilities for the aged, exhibition, manpower supply and employment,

building and industrial facilities cleaning, security and escort service, market research and opinion survey, social welfare service, general urban gas, mail-order sales, maintenance and repair services of personal and household goods, hair, nails and skincare service, etc. or when new venture enterprises certified by authorities concerned are established, the income tax or the corporation tax for such businesses is reduced by 50% for the first five years (in the case of SMEs led by young entrepreneurs, 100% for the first five years including the year during which such income accrues for the first time.

**b. Special Tax Incentive for SMEs (STTCL §7, due to expire on Dec. 31, 2022)**

Small and medium-sized enterprises (SMEs) in metropolitan area are eligible for 10% or 20% deduction in corporation tax or income tax. SME in non-metropolitan area are eligible for 5%~ 30% deductions in corporation tax or income tax respectively.

## **2. Research and Development**

The tax incentives below are basically provided to all businesses that meet the given objective conditions without any discrimination.

**a. Tax credit for research and human resources (HR) development (STTCL §10)**

The larger one between ① and ② will be applied.

① 25% (40% for High Potential Enterprises and 50% for SMEs) of the excess of expense incurred for research & HR development conducted by the company itself for that taxable year over the expense incurred for research & HR development conducted by the company itself for the year prior to that year

② The year's R&D spending x

(1) In the case of an SME: 25/100

(2) In the case where an SME becomes no longer an SME prescribed by the Presidential Decree for the first time, the following rate will be applied:

(a) From the first day of taxable year when the company becomes no longer an SME for the first time to the taxable year that ends within 3years from that date: 15/100

(b) From the date after (a) to the taxable year that ends within 2 years from that date: 10/100

(3) In the case of a High Potential Enterprise\*: 8/100

\*A High Potential Enterprise is an enterprise which is not an SME but carries out businesses that are specified as SME's businesses under Article 2.1.1 of the Presidential Decree of the STTCL and whose annual sales revenue is 500 billion won or less.

(4) In the case other than 1) through 3): The following formula will be applied (ceiling is 2/100):

$0/100 + \text{the share of research \& HR development out of income amounts} \times 1/2$

**b. Tax Credit for R&D Expenses of New Growth Engines and Basic Technology (STTCL §10, due to expire on Dec. 31, 2021)**

20% (30% for SME) + maximum of 10% {(expenses/sales for new growth R&D) × 3}

25%~40% for middle-standing enterprises listed on KOSDAQ: 25%+ a maximum of 15 % (R&D expenses for new growth engines/revenue)\*3

**c. Tax Exemption for Income from Technology Transfer and Acquisition (STTCL §12, due to expire on December 31, 2021)**

SMEs and High Potential Enterprises transferring any of its patent rights, utility model, confidential technique prescribed by Presidential Decree, or technology prescribed by Presidential Decree (hereinafter referred to as "patent rights, etc." in this paragraph) to a national (excluding transfer of such patent rights, etc. to a related party prescribed by Presidential Decree) are eligible for tax credit equivalent to 50% of the tax liability for transferring; SMEs acquiring patent rights, etc. are eligible for tax credit equivalent to 10% (5% for High Potential Enterprises and large companies) of the total acquisition price for acquiring; SMEs leasing patent rights, etc. are eligible for tax credit equivalent to 25% of the tax liability for leasing.

\* Tax Credit for Income from Technology Acquisition has ceased to apply as of December 31, 2018.

**d. Non-taxation on Capital Gains of Venture Capitals** (STTCL §13, due to expire on December 31, 2022)

Venture capital companies investing in newly organized SMEs are eligible when they sell off stocks or equity of those SMEs. Corporation tax is exempt for capital gains from such transactions.

**e. Income Tax Deduction for Individual Investors** (STTCL §16, due to expire on Dec.31, 2022)

Not more than 50% of the aggregate income shall be deducted from the aggregate income for any one of three years after investment including the year during which the investment is made. The deduction rates are as follows:

- (1) Investments in the cooperative associations, including those formed by individual investors, established for start-up SMEs, investments in trusts for securities investments in venture enterprises, or investments in private equity fund (PEF) specialized for start-ups and venture firms: 10% of investment amount
- (2) Investments made in venture enterprises directly or through a private investment association, or in SMEs having been established for less than 7 years, by means of crowd funding: 100% for the investment amount less than 30 million won, 70% for between 30 million won and 50 million won, 30% for more than 50 million won.

**f. Income tax reduction for Foreign Engineers** (STTCL§18)

A foreign engineer prescribed by the Presidential Decree shall be entitled to the tax exemption on 50/100 of his income tax on earned income derived from his services to a national within Korea for the first five years since the first date on which the foreign engineer concerned offered his services in Korea. In case of a foreign engineers engaged in materials, components and equipment industry, he/she is exempted from 70/100 income tax for the first three years from the first date of service, and 50/100 income tax for the next two years (limited to cases where the services are offered prior to December 31, 2021).

**g. Special Taxation for Foreign Workers** (STTCL§18-2)

In the case of providing work for the first time before December 31, 2021, income tax for foreign employees (excluding laborers hired on a daily basis) who worked in Korea until the five-year period from the date of provision of work can be multiplied

by 19/100 of the income tax. In such cases, provisions concerning income taxation, such as tax exemption, deduction, reduction, or tax credit shall not be applicable.

### **3. Tax Incentives for International Capital Transactions**

In the cases where interest and commission under one of the following items are paid, income tax or corporation tax shall be exempt.

- (1) Interest and commission on foreign currency bonds issued by the State, a local autonomous body, or any domestic corporation
- (2) Interest and commission payable on foreign currency liabilities borrowed from a foreign financial institution, or eligible institutions carrying foreign exchange businesses, repayable in foreign currency by any foreign exchange bank
- (3) Interest and commission on certificates of deposit in foreign currency from non-residents by a foreign exchange bank, and on notes issued or sold in foreign countries under the Foreign Exchange Transactions Law

### **4. Investment**

#### **a. Integrated Investment Tax Credit (STTCL §24)**

The "Integrated Investment Tax Credit" was established by integrating investment tax Credits for investment by SMEs, Investment in specific facility\*, Investment in facilities for improved quality management of medicines, and investment in facilities for commercializing new growth technologies. And Varying Credit rates was unified by the type of enterprise.

\* Investment for productivity enhancement facilities, energy-saving facilities, Safety facilities, Environmentally Friendly Facilities, worker's welfare promotion facilities

The tax incentives below are basically provided to all businesses (except businesses for the purpose of amusement, entertainment, etc and Real estate activities with own or leased property) that meet the given objective conditions without any discrimination.

- (1) Covered Assets
  - a) Fixed assets for general business use (except land, buildings, etc prescribed



by ordinance of MOEF)

b) Assets other than “a.” prescribed by ordinance of MOEF\*

\* Facilities for Researching and experimenting, Vocational training, Productivity Enhancement, Facilities for Safety, Energy Saving Facilities, Environmentally Friendly Facilities and Safety Facilities, Facilities for Improved Quality Management of Medicines, etc.

c. Facilities for Commercializing New Growth Technologies, Facilities related to 5G Base Stations

(2) Credits amount

a) Basic Credits : Investment in “1)” × credit rate

| type        | SMEs | Middle-market enterprises | ETC |
|-------------|------|---------------------------|-----|
| Credit rate | 10%  | 3%                        | 1%  |

\* 2% credit rate add for investment in facilities for commercializing new growth technologies (above “(1) c.” assets)

b) Added Credits : If the investment amount in relevant taxable year exceeds the average investment amount for the preceding 3 year, amount of 3/100 of the excess(limit : basic credit \*2 )

**\* Previous tax credits integrated into “Integrated Investment tax credit(STTCL §24)”**

- Tax Credit for Investment by SMEs, etc (STTCL §5)
- Tax Credit for Investment in Facilities for Productivity Enhancement (STTCL §25)
- Tax Credit for Investment in Facilities for Safety (STTCL §25)
- Tax Credit for Investment in Energy Saving Facilities (STTCL §25)
- Tax Credit for Investments in Environmentally Friendly Facilities and Safety Facilities (STTCL §25)
- Tax Credit for Investment in Facilities for Improved Quality Management of Medicines (STTCL §25-4)
- Tax Credits for Investment in Facilities for Commercializing New Growth Technologies (STTCL §25-5)

|  |
|--|
| ▪Tax Credit for Investment in Facilities related to 5G Base Stations (STTCL §25-7) |
|--|

**b. Tax Credit for Production Costs of Video Content** (STTCL §25-6, due to expire on Dec. 31, 2022)

Where a national prescribed by Presidential Decree has any cost prescribed by Presidential Decree (hereafter in this Article, referred to as "production costs of video content") incurred in producing any of the following broadcast programs or motion pictures prescribed by Presidential Decree (hereafter in this Article, referred to as "video content"), in the Republic of Korea, by not later than December 31, 2022, the national is entitled to deduct the equivalent to 3% of the production costs of video content (or 7% in cases of a middle-standing enterprise prescribed by Presidential Decree; and 10% in cases of SMEs), from income tax (limited to income tax on business income) or corporate tax, for the taxable year in which the video content first broadcasts or premieres in a cinema, as prescribed by Presidential Decree:

1. Broadcast programs defined in Article 2 of the Broadcasting Act;
2. Motion pictures defined in Article 2 of the Promotion of the Motion Pictures and Video Products Act.

**c. Special taxation for investing in a collective investment scheme for specified social infrastructure** (STTCL §26-2, due to expire December 31, 2022)

With regard to a publically offered fund investing 50% or more of its capital in infrastructure related to new industry such as information and communications industry, green industry, its investors are subject to separate taxation with a favorable rate of 9% in regard to the dividend income and excluded from global taxation (investment ceiling on 200 million won)

**d. Special taxation on investing in a collective investment scheme** (STTCL § 27, due to expire in December 31, 2022)

In respect of a collective investment scheme publically funded and investing 100% of its capital in social infrastructure, dividend income of its investors is subject to separate taxation and excluded from global taxation (investment ceiling on 100 million won)

**e. Tax Reduction and Exemption for Companies Closing Overseas Business Places and Returning to Korea** (STTCL §104-24, due to expire on Dec. 31, 2021)

In the case where a national closes down a business place overseas which had been operated for two years or more to relocate or establish a new business place in Korea (excluding metropolitan area), the national is entitled to a tax deduction as follows. Where the national closes down the entire business place overseas, an amount equivalent to 100/100 of income or corporate tax on income deriving from a new business place after relocation will be deducted for five consecutive taxable years starting from the taxable year to which the relocation date belongs; for the next two taxable years, an amount equivalent to 50/100 will be deducted. On the other hand, where the national closes down a part of the business place overseas and relocate it outside the Seoul Metropolitan Area, the rate of 100/100 is applied for 5 consecutive taxable years starting from the taxable year to which the relocation date belongs; for the next two taxable years, the rate of 50/100 will be applied. Where, however, such partial relocation takes places inside the Seoul Metropolitan Area (outside of the overcrowding prevention zones), the rate of 100/100 is applied for the first 3 taxable years and 50/100, the later 2 years.

However, deducted tax amount will be collected if a national offered income or corporate tax deduction.

- (1) Closes down that business within three years from the relocation and the beginning date of business (excluding cases arising from merger and division)
- (2) Does not start a business after relocating business place in Korea

#### **4-1. Employment**

**a. Tax Credits for Small or Medium Enterprises Re-Employing Career-Interrupted Women** (STTCL §29-3)

Where a small and medium-sized or middle-standing enterprise enters into an employment agreement for at least one year (hereafter in this Article, referred to as "re-employment") with a woman who meets all of the following conditions (hereafter in this Article and Article 30, referred to as "career-interrupted woman"), by not later than December 31, 2022, the small and medium-sized or middle-standing enterprise is entitled to deduct the equivalent to 30/100 of the labor cost(15/100 for middle-standing enterprises) prescribed by Presidential

Decree paid to the career-interrupted woman from the date of re-employment until the month falling on the second anniversary therefrom, from income tax (limited to income tax on business income) or corporate tax payable for the relevant taxable year: Also, any SME or middle-standing enterprise that reinstates an employee, having worked more than 1 year therefor and returned from a childcare leave of not less than 6 months, is granted tax credits amounting to 10/100(5/100 for middle-standing enterprises) of the wages and salaries paid to such returning employee from income taxes(applicable only for business income) or corporate taxes in the relevant taxable year:

(1) After working for at least one year at the relevant enterprise or the same enterprise, he/she shall retire due to marriage, pregnancy, childbirth, childcare, and children's education;

(2) A period of not less than 3 years and less than 15 years has elapsed since the date of retirement due to the cause of (1)

(3) It shall not be the largest shareholder of the relevant enterprise, the largest investor, or any related person prescribed by Presidential Decree thereof;

b. By no later than December 31, 2022, any SME or middle-standing enterprise that reinstates an employee, having worked more than 1 year therefor and returned from a childcare leave of not less than 6 months, is granted tax credits amounting to 10/100(5/100 for middle-standing enterprises) of the wages and salaries paid to such returning employee from income taxes(applicable only for business income) or corporate taxes in the relevant taxable year

**b. Tax Credit for Enterprises Increasing Job Creation (STTCL §29-7)**

Where a national(excluding a national operating business prescribed by Presidential Decree such as consumptive service business. hereafter the same in this Article) has increased the number of permanent employees prescribed by Presidential Decree(hereafter in this article, referred to as “permanent employees”)more than that of the immediate preceding year by no later than a period in the taxable year to which December 31, 2021 belongs, amounts in each of the following sub-paragraphs shall be aggregated and deducted from income tax or corporate tax for the relevant taxable year:

(1). Increase in the number of permanent employees prescribed by Presidential Decree, including young regular employees and employees with disability (hereinafter referred to as “permanent employees including youth”) × KRW 4 million [KRW 8 million in cases of middle-standing enterprises prescribed by

Presidential Decree(hereafter in this article, referred to as “middle-standing enterprise”), and the amount in the following items in cases of SMEs]:

(a) In case where such increase accrued in the Seoul metropolitan area, KRW 11 million;

(b) In case where such increase accrued outside the Seoul metropolitan area, KRW 12 million;

(2). Increase in the number of permanent employees other than permanent employees including youth × KRW 0(KRW 4.5 million in cases of middle-standing enterprises, and the amount in each of the following items in cases of SMEs):

(a) In the case such increase accrued in the Seoul metropolitan area, KRW 7million;

(b) In the case such increase accrued outside the Seoul metropolitan area, KRW 7.7 million.

**c. Tax Credit for Change of Status to Regular Employees (STTCL §30-2)**

Where a small or medium enterprise or a middle-standing enterprise prescribed by Presidential Decree, changes the status of any fixed-term worker or part-time worker defined in the Act on the Protection, etc. of Fixed-Term and Part-Time Workers (hereafter in this Article, referred to as "fixed-term worker or part-time worker"), or temporary agency worker defined in the Act on the Protection, etc. of Temporary Agency Workers, who is employed as of June 30, 2020, or any fixed-term worker or part-time worker employed by any of its subcontractors defined in the Fair Transactions in Subcontracting Act, to an employee with whom it enters into an indefinite term employment contract, directly employs such temporary agency worker by the employer under the Act on the Protection, etc. of Temporary Agency Workers, or directly employs such worker upon entering into an indefinite term employment contract by a prime contractor defined in Article 2 (2) 2 of the Fair Transactions in Subcontracting Act (hereafter in this Article, referred to as "change to a regular employee"), by not later than December 31, 2021, the small or medium enterprise is entitled to deduct an amount calculated by multiplying the number of employees changed to regular employees by ten million won (or seven million won in cases of a middle-standing enterprise prescribed by Presidential Decree), from income tax (limited to income tax on business income) or corporate tax payable by it for the relevant taxable year.

**d. Deduction of social insurance premiums from income or corporation taxes for SMEs creating jobs (STTCL §30-4, due to expire on Dec. 31, 2021)**

As part of an effort to support job creation, all or part of social insurance premiums is deducted from income or corporation taxes of SMEs creating jobs.

(1) Deduction of all of social insurance premiums for newly-employed youth aged 15 to 29 [Youth and Career Interrupted Women(hereafter in this Article, referred to as “Youth, etc”)].

\* The total amount of social insurance premiums for regular young employees during the corresponding taxable year divided by the number of regular young employees during the same year is multiplied by ①

\*A smaller number between the increased number of regular young employees and the increased number of regular employees

(2) Deduction of 50% of social insurance premiums for new employees except youth

\* The total amount of social insurance premiums for regular employees except youth during the corresponding taxable year divided by the number of regular employees except youth during the same year is multiplied by 50% of (the increased number of regular workers minus ①)

(3) In respect of workers prescribed by Presidential Decree and employed by a newly established SME prescribed by Presidential Decree as of January 1, 2020, and newly subscribed to social insurance by no later than December 31, 2020, the equivalent to 50/100 of the social insurance premiums(except for state subsidies or grants prescribed by Presidential Decree) prescribed by Presidential Decree and born by such employer until the month falling on 2 year anniversary from the subscription date, shall be deducted from income tax(only applicable to income tax on business income) or corporate tax for the relevant taxable year.

## **5. Provisions Associated with Taxation on Reorganization**

The provisions below were introduced to facilitate restructuring through the reduction of the tax burden that can be a hindrance to restructuring process such as business reorganization, re-engineering, and financial structure improvement. These provisions are not specific to any particular companies or industries.

Developed countries including the U.S. are also known not to levy tax on reorganization (so-called tax-free reorganization) when certain requirements are met.

**a. Consolidation between SMEs(STTCL §31)**

In the case of consolidation between two or more SMEs, there shall be no capital gains tax imposed on the real estate property transferred to the newly consolidated company. However, when the newly consolidated company sells the real estate property acquired from the consolidation, any capital gains from such sales shall be based on the price at which the real estate was acquired before the consolidation.

**b. Conversion from an Individual to a Corporation(STTCL §32)**

If a resident converts from an individual to a corporation(excluding luxury services), he or she may be eligible for tax deferral with respect to income from investments in business assets prescribed in the Presidential Decree.

**c. In-kind Contributions (Due to expire on Dec. 31, 2018)**

The term "in-kind contribution" refers to a method for corporate restructuring whereby a company makes an in-kind contribution of assets to a company to be newly incorporated in return for shares in the new company.

The shareholder company can defer the payment of the corporate income tax on any capital gains arising from the in-kind contribution until the company sells the acquired shares.

**d. Disposal of Redundant Assets Resulting from M&A(Due to expire on Dec. 31, 2020)**

In the case where a corporation created through merger sells any redundant asset resulting from the merger and acquires an asset for business purpose within a certain period of time, gains from the transfer of the redundant asset will be included in the company's gains over three years from the third year (one third of the capital gains for each year) following the end of the year in which the transfer takes place.

**6. Balanced Development**

Tax incentives below were introduced to effectively deal with problems such as pollution and traffic congestion in Seoul and metropolitan areas caused by concentration of population and industrial facilities in the area and to develop underdeveloped areas.

These tax incentives are provided to all enterprises that move away from Seoul and metropolitan areas that meet the objective criteria set out by relevant laws and regulations. Therefore, these tax incentives are not specific to particular enterprises or industries.

**a. Tax reduction or exemption for enterprises relocating factories outside the seoul metropolitan area (STTCL §63, due to expire on Dec. 31, 2022)**

In the case where a national that has operated a business with factory facilities for more than 3 years (two years for SMEs) in the overly-populated Seoul metropolitan area starts business by December 31, 2022 after relocating the factory, the income generated from the factory after the relocation is applied. 100/100 of income tax or corporate tax is exempted for 6 years from the beginning of the taxable year in which the first income is generated and 50/100 for 3 years thereafter.

**b. Tax reduction or exemption for corporations relocating head office outside Seoul metropolitan area**

In the case where a corporation that has been headquartered continuously for more than three years within the overly-populated Seoul metropolitan area moves its head office and commences business by December 31, 2022, corporate tax is reduced or exempted according to (1) on the income subject to reduction or exemption under (2).

(1) a. \* ratio b. and c.

a. The amount obtained by deducting gains from the transfer of the right to acquire land, buildings, and real estate and income prescribed by Presidential Decree from the tax base for the relevant taxable year

b. The ratio of the number of employees at the former headquarters to the total number of employees in the corporation

c. The ratio of the amount obtained by subtracting the sales from consignment processing trade prescribed by Presidential Decree from the total sales for the relevant taxable year

(2) In the case of relocation to the other regions: Exemption of corporation taxes for the first seven years, 50% of tax reduction for three years following the seven years

**c. Reduction of Corporation Tax for a Farming Company (STTCL §68, due to expire on Dec. 31, 2021)**

With respect to a farming company which is entrusted under the Framework Law on Agriculture and Rural Community, any income derived from an agency business of farming management and cultivation of land shall be eligible for 100% exemption on corporation tax by Dec. 31, 2021, but for income from sources other than land cultivation, the tax shall be reduced by 50% for four years including the year in which the income is initially accrued.



#### **d. Tax Exemption for the Capital Gains from Farmland Transaction**

When an individual who resides in a farmland area or where a domestic corporation has continuously cultivated farmland for more than eight years from the time of acquisition who is subject to the farm income tax (including the cases of non-taxation, tax exemption and reduction, and non-assessment of small sum tax), the income tax and additional tax on capital gains from the transfer of the above land is exempt.

### **7. Tax Incentives for Enhancement of Social Welfare**

**a. The following associations shall be taxed at 9%** (Due to expire on Dec. 31, 2022). **However, in cases where the tax base exceeds 2 billion won (4 billion won for two years if M&A takes place by Dec. 31, 2016), the excess shall be taxed at 12%.**

- (1) Credit cooperative association and Saemaeul funds
- (2) Unit agricultural cooperative association and special agricultural cooperative association
- (3) Fisheries cooperative association established on an area basis or on an industry basis and fisheries products manufacturing cooperative associations (including fishing village guilds)
- (4) Cooperative associations, small cooperative associations, and the federation of cooperative associations established under the Small and Medium Enterprise Cooperatives Law
- (5) Fraternities and associations established under the Forest Association Law
- (6) The tobacco production association
- (7) Consumer Association established under the Consumer Association Law

#### **b. Tax Exemption including Corporation Tax on Social Enterprises**

When a company is accredited as a social enterprise, the company is eligible for 50% deduction of corporation tax for 4 years after the accreditation.

### **8. Non-taxable Interest and Dividend Income**

**a. Interest income and dividend income from Individual Savings Account of 2 million won a year for any resident aged 19 and older, and any income earner aged 15 and older**

- b. Interest income from deposits of less than 30 million won and dividends from partnerships of less than 10 million won for farmers and fishermen (Due to expire on Dec. 31, 2022)
- c. Interest income from savings account of 50 million won or less held by the elderly, the disabled, etc.(Due to expire on Dec. 31, 2022)
- d. Interest income from installment savings subscribed and contributed to by any service men and women on active duty, the ceiling of which is set at 400 thousand won monthly (due to expire on Dec.31, 2021)
- e. Interest income from the housing subscription savings account for youth with the ceiling on annual contributions at 6 million won (due to expire Dec. 31, 2021)
- f. persons subject to special treatment in interest and dividends(tax exemption or favorable taxation), those whose financial income has been excluded from global taxation at least once during the previous 3 years since they subscribed to or extended the contract deriving such special treatment.

#### **9. Zero-Rating of Value-Added Tax**

- a. In the case of value-added tax on the supply of goods under the following items, the tax rate of zero shall be applied.
- b. Military supplies including those for police that are supplied by military supply enterprises
- c. Petroleum products supplied to the units or agencies established by the Organization of National Armed Forces Law
- d. Subway construction services
- e. Social infrastructure facilities and building projects entailed therein supplied to the government, local authorities, Korea Rail Network authority or business under the law onPublic-Private Partnerships in Infrastructure
- f. Complementary gear for the disabled
- g. Machinery, fertilizer, and pesticides used for agriculture and forestry
- h. Machinery, fishing gears, and nets used for fishing in adjacent seas or inland waters
- i. Environment-friendly agricultural instruments

## **10. Exemptions of Value-Added Tax**

### **a. Value-added Tax shall be Exempt on the Supply of Goods or Services for the Following Items.**

- (1) Petroleum products supplied directly to the Central Federation of Fisheries Cooperatives for use in auxiliary private power generation for island areas where it is impossible or difficult for a considerable period for any general electricity businessperson to supply electricity
- (2) Meal services supplied directly to students or employees by a school, a factory, a mine, a building site, and a welfare refectory
- (3) National housing and its construction service
- (4) Petroleum products supplied to the Korea Shipping Association for use by passenger boats operated in coastal waters
- (5) Public transportation (buses) operating on natural gas
- (6) Medicines for rare diseases specified in the Presidential Decree

### **b. Value-added Tax shall be Exempt on the Import of the Following Items.**

- (1) Anthracite coal
- (2) Bonded construction goods under Customs Act that are used for taxable business
- (3) Ships to be used for business subject to tax in Korea

**c.** Tax credit is allowed for businesspersons who file an increased revenue income that exceeds the standard revenue income by thirty percent.

**d.** Where a foreign company or non-resident without a place of business in Korea who carries out business abroad is provided with goods or services such as foods, accommodation, advertising service, office supplies for domestic office while doing business in Korea, the goods and services are provided at tax-included prices and then amounts equivalent to the sum of value-added taxes of those goods and services are refundable by the Korean government to a foreign company or non-resident.

## **11. Exemptions of Individual consumption tax or Transportation·Energy·Environment Tax**

- a. The goods purchased by a foreigner in Korea shall be exempt or refunded from the value-added tax or the individual consumption tax, provided that the purchaser withholds them abroad.
- b. Individual consumption tax shall be exempt on the following goods that are hard to be produced domestically thus imported.
  - (1) Goods to be used directly by public corporations such as Korea Institute of Science and Technology, Korea Development Institute, and Korea Spiritual Culture Research Institute
  - (2) Goods to be used for education in a vocational school
  - (3) Equipment and materials to be used directly by the Korea Broadcasting System Corporation
  - (4) Raw materials to be used by a person engaging in the defense industry
  - (5) Samples for experiment and research to be used by Industrial Technology Research Association or a research institute affiliated to an enterprise
  - (6) Goods for research to be used by a research institute that is categorized into non-profit corporation
- c. Individual consumption tax shall be exempt on Korean-made automobiles purchased by diplomats stationed in Korea, Korean-made automobiles purchased by any foreign voluntary aid agency registered by an agreement for its business.
- d. Petroleum products prescribed in 9 (b) and 10 (a.1) shall be exempt from the individual consumption tax or transportation·energy·environment tax.
- e. Goods to be used by the Organizing Committee of the 2002 World Cup Football Tournament for the construction of game facilities shall be exempt from the individual consumption tax.

## **12. Exemptions of Liquor Tax**

Liquor tax on alcoholic beverages served at special restaurants exclusively for use by foreign military personnel stationed in Korea and foreign crews shall be exempt.

## **13. Limit on Tax Incentives (STTCL§127)**

- a. Tax reduction and exemption under STTCL is applicable repeatedly where there are no particular restrictions.
- b. Overlapping support is eliminated on following cases (STTCL §127).

- (1) Elimination of overlapping application of tax incentive on same investment (STTCL §127②)
- (a) Tax credit for investment in Specified Facilities, etc. (STTCL §8-3③)
  - (b) Tax Credit for Integrated Investment (STTCL §24)
  - (c) Tax credit for investment in job creation (STTCL §26)

- (2) Elimination of overlapping tax reduction or exemption and tax credit to foreign-invested company (STTCL §127)
- In the case where a corporate reduced or exempted from corporate tax on foreign investment is applicable to tax credit, the following amounts are deducted from tax payable:

→ Investment amount × Deduction rate × Shareholding rate of local residents / Gross stock and shares

- (a) Tax credit for investment in Specified Facilities, etc. (STTCL §8-3③)
  - (b) Tax credit for Integrated Investment (STTCL §24)
  - (c) Tax credit for investment in job creation (STTCL §26)
  - (d) Tax Credits for Enterprises Increasing Jobs for Youths (STTCL §29-5)
  - (e) Tax Credits for Enterprises Increasing Jobs (STTCL §29-7)
  - (f) Tax credit for social insurance premiums with respect to jobs added by SMEs (STTCL §30-4)
  - (g) Tax credit for third party distribution expense (STTCL §104-14)
  - (h) Tax credit for investment in development of overseas resources (STTCL §104-15)
- (3) Elimination of overlapping application of tax reduction or exemption and tax credit (STTCL §127④)

**<Tax reduction or exemption>**

- (a) Tax reduction or exemption for small or medium start-up enterprises (STTCL §6)
- (b) Special tax reduction or exemption for small or medium enterprises (STTCL §7)
- (c) Reduction or exemption of corporate tax, etc. for high tech enterprises,

- etc. located in special research and development zones (STTCL §12-2)
- (d) Tax reduction or exemption for the remaining tax reduction and exemption period in the case of consolidation (STTCL §31④,⑤)
  - (e) Tax reduction or exemption for the remaining period in the case of conversion into corporation (STTCL §32④)
  - (f) Reduction or exemption of corporation taxes and others for public institutions relocating to innovation-oriented cities (STTCL §62④)
  - (g) Tax reduction or exemption for small or medium enterprises who relocated their factory to outside over-concentration control zone of Seoul metropolitan area (STTCL §63)
  - (h) Abatement or exemption of corporate taxation, etc. for relocation of corporation's factory and head office to outside of Seoul metropolitan area (STTCL §63-2)
  - (i) Tax reduction or exemption for enterprises, etc. relocated in agro-industrial complex (STTCL §64)
  - (j) Exemption of corporate tax for agricultural association corporation, etc. (STTCL §66)
  - (k) Exemption, etc. from corporate tax for fishery partnership corporation, etc. (STTCL §67)
  - (l) Corporate tax exemption, etc. for incorporated agricultural corporation (STTCL §68)
  - (m) Abatement or exemption of corporate tax, etc. on social enterprises (STTCL §85-6①)
  - (n) Abatement or exemption of tax on standard business place for people with disabilities (STTCL §85-6②)
  - (o) Tax reduction or exemption for companies closing overseas business places and returning to Korea (STTCL §104-24①)
  - (p) Reduction or exemption of corporation tax, etc. for companies located in Jeju high-tech science and technology complex (STTCL §121-8)
  - (q) Reduction or exemption of corporation tax, etc. for a company located in Jeju Investment Promotion Zone or Jeju Free Trade Zone (STTCL §121-9②)
  - (r) Reduction or exemption of corporation tax, etc. for a company, etc., which started a business or established a new business place in enterprise city development zone (STTCL §121-17②)
  - (s) Reduction or exemption of corporation tax for a company moving into

the investment promotion zone for Asian cultural hub city (STTCL §121-20②)

- (t) Reduction or exemption of corporation tax, etc. for a company, etc., which started a business or established a new business place in a financial hub city (STTCL §121-21②)
- (u) Reduction or exemption of corporation tax, etc. for a company moving into a high-tech medical cluster (STTCL §121-22②)

**<Tax credit>**

- (a) Tax credit for contributing fund for co-growth of large and small and medium companies (STTCL §8-3)
- (b) Special Taxation for Investment by Domestic corporations in Venture Businesses, etc.(STTCL §13-2)
- (c) Tax credit for Integrated Investment(STTCL §24)
- (d) Temporary tax deduction for investment (old STTCL §26)
- (e) Tax credit for investment in job creation (STTCL §26)
- (f) Tax credit for employment increase (excluding when Article 7 applicable (STTCL §30-4)
- (g) Tax credit for third party distribution expense (STTCL §104-14)
- (h) Tax credit for investment in development of overseas resources (STTCL §104-15)
- (i) Tax credit for operational cost of a corporate sports team (STTCL §104-22)
- (j) Tax credit for e-commerce of petroleum products (STTCL §104-25)
- (k) Tax Credits for Increased Revenue, etc. of Gold Business Operators and Business Operators of Scrap, etc.( STTCL §122-4①)
- (l) Tax Credit for Provision and Withdrawals of Gold Bullion by Gold business Operators using Gold Exchange (STTCL §126-7⑧)

※ Overlapping Application of Tax Credits

- i) Tax credit for improving enterprise's bill system (STTCL §7-2)
- ii) Deduction of tax amount from expenses for research and human resources development (STTCL §10)
- iii) Tax credit for expense for verifying honest tax payment (STTCL §126-6)

- (4) Elimination of overlapping tax credit on same business place (STTCL §127 ⑤)
- (a) Tax reduction and exemption for small or medium start-up enterprises (STTCL §6)
  - (b) Special tax reduction or exemption for small or medium enterprises (STTCL §7)
  - (c) Reduction or exemption of corporate tax, etc. for high tech enterprises, etc. located in special research and development zones (STTCL §12-2)
  - (d) Tax reduction or exemption for the remaining tax reduction and exemption period in the case of consolidation (STTCL §31④.⑤)
  - (e) Tax reduction or exemption for the remaining period in the case of conversion into corporation (STTCL §32④)
  - (f) Reduction of taxes including corporation taxes for public institutions moving to innovation cities(STTCL §62④)
  - (g) Tax reduction or exemption for Enterprises relocating factories outside the Seoul Metropolitan Area
  - (h) Tax reduction or exemption for corporations relocating Head office outside Seoul metropolitan area (STTCL §63-2①)
  - (i) Tax reduction or exemption for enterprises, etc. relocated in agro-industrial complex (STTCL §64)
  - (j) Abatement or exemption of corporate tax, etc. on social enterprises (STTCL §85-6①)
  - (k) Abatement or exemption of tax on standard business place for people with disabilities (STTCL §85-6②)
  - (l) Tax reduction for companies closing overseas business places and returning to Korea (STTCL §104-24①)
  - (m) Reduction of or exemption from corporate tax, etc. for foreigners' investment (STTCL §121-2)
  - (n) Tax reduction or exemption for capital increase of a foreign-capital invested company (STTCL §121-4)
  - (o) Reduction or exemption from corporate tax, etc. for companies located in the Jeju high-tech science and technology complex (STTCL §121-8)
  - (p) Reduction or exemption from corporate tax, etc. for companies located in theJeju investment promotion zone or the Jeju free trade zone (STTCL §121-9②)
  - (q) Reduction or exemption from corporate tax, etc. for enterprises, etc. started a business or established a new business place in enterprise city



development zone (STTCL §121-17②)

- (r) Reduction or exemption from corporate tax on enterprises moving into investment promotion zone for Asian cultural hub city (STTCL §121-20②)
- (s) Reduction or exemption from corporate tax, etc. for enterprises, etc. started a business or established a new business place in financial hub city (STTCL §121-21②)
- (t) Reduction or exemption of taxes including corporation taxes for enterprises moving into a high-tech medical cluster (STTCL §121-22②)

### **c. Minimum Tax Systems**

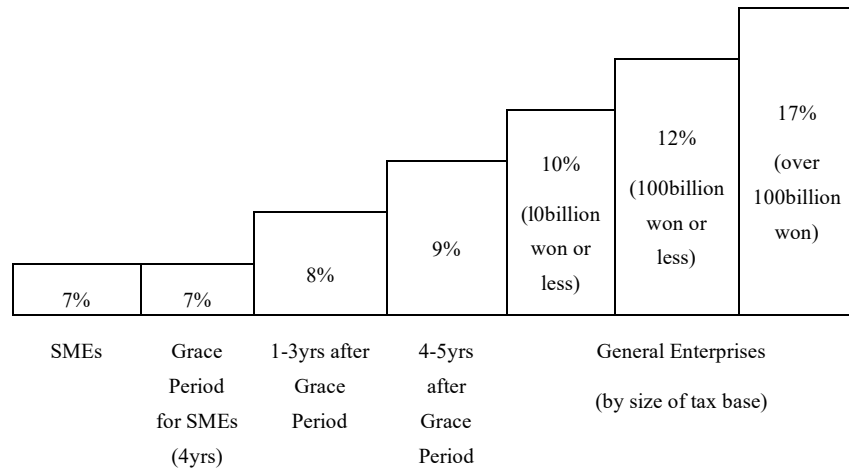
- (1) A taxpayer should pay a minimum tax as follows, even if he or she is granted the tax incentives under the current Special Tax Treatment Control Law.

\* Applicable taxes

- (a) For a corporation: Corporation income tax (excluding penalty tax and back tax prescribed by the Presidential Decree)
- (b) For an individual: Business income tax

- (2) Minimum tax to be paid

- (a) For an individual, 45% of calculated tax amount before considering applicable tax incentives if the tax amount exceeds 30 million won; 35% of calculated tax amount before considering applicable tax incentives if the tax amount is 30 million won or less
- (b) For a corporation, following rate of tax base before considering applicable tax incentives



(3) Tax to be added after calculating the minimum tax

(a) Penalty tax

(b) Penalties under the STTCL

(c) Reassessment tax under the STTCL

(4) Tax creditable after calculating the minimum tax

(5) Foreign tax credit

(a) Credit for losses arising from disaster

(b) The full amount of R&D tax credit (for SMEs)

(c) The amount of R&D tax credit for expenses on hiring master and doctoral degree holders (for non-SMEs)

#### **d. The Ceiling of Total Tax Incentives for Capital Gains**

For an individual, an exemption amount of capital gains accruing from

transactions of real estate shall be given within the limit of 100 million won based on tax amount per year. If the exemption amount exceeds 100 million won, the portion exceeding that amount is not exempt.

#### **14. Foreign Direct Investment**

In the aftermath of the Asian financial crisis, the government has been advocating a series of comprehensive reform measures in the corporate, financial, and labor sectors to address some of the more fundamental problems in the economy. Because stimulating foreign investment and injecting market competition into the domestic economy are believed to be critical to the success of the reform drive, the government has accelerated market liberalization in such areas as mergers and acquisitions (M&A), securities, capital transactions, foreign exchange, and the real estate market, virtually opening up all of the previously restricted markets to both portfolio investment and foreign direct investment (FDI).

With respect to FDI which entails acquisition of a controlling interest in a foreign firm or affiliate (e.g., a branch or subsidiary) unlike the passive and interest-driven portfolio investment, the enactment of the Foreign Investment Promotion Law (FIPL) in September 1998 is noteworthy. The principal objective of FIPL is to attract FDI by:

- a. Eliminating burdensome regulations and anti-competitive market restrictions
- b. Creating a more liberalized, transparent and favorable business environment for foreign businesses and investors
- c. Expanding tax incentives such as tax exemptions and reductions for extended periods

The tax incentives granted to FDI under the FIPL, which was subsumed into the Special Tax Treatment Control Law (STTCL) on May 24, 1999, are primarily aimed at attracting high-technology and large-scale manufacturing investment, and include partial and full exemptions on individual and corporate income taxes and local taxes. Full exemptions from customs duties, individual consumption tax, and value-added tax (VAT) may also be granted to imported capital goods.

To be eligible for the tax incentives provided by the STTCL, a foreign investor must either retain at least 10% of the outstanding shares of the invested company (foreign-invested company) where the ownership of the outstanding shares is less than 10%, or exercise managerial control by an investment agreement or under a similar arrangement with the foreign-invested company.

## 15. Tax Incentives for FDI

Under the regime of the Special Tax Treatment Control Law, FDIs in the businesses that are expected to support the international competitiveness of domestic industry, when specific conditions are met, are exempted from taxes including corporate tax. The tax incentives for individual & corporate income taxes may only be enjoyed by the applicant who made an application on or before Dec. 31<sup>st</sup>, 2018.

### a. Exemptions or Reductions for Advanced Technology FDIs

| <b>Tax</b>   | <b>Incentives</b>  |
|--|--|
| Individual and corporate income taxes                            | Full exemption for 5 years, 50% reduction for next 2 years   |
| Local taxes: acquisition, property, aggregate land, registration | Full exemption for 5 years, 50% reduction for next 2 years (local governments can extend the applicable period up to 15 years) |
| Customs duties, individual consumption tax, value-added tax      | Full exemption for 5 years on imported capital goods by foreign-invested companies   |

### b. FDIs entering Individual-type Foreign Investment Zone (FIZ)

| <b>Tax</b>  | <b>Incentives</b>  |
|---|--|
| Individual and corporate income taxes                       | Full exemption for 5 years, 50% reduction for next 2 years                         |
| Local taxes: acquisition, property, registration            | Full exemption for 5 years, 50% reduction for next 2 years; (up to 15 years)       |
| Customs duties, individual consumption tax, value-added tax | Full exemption for 5 years on imported capital goods by foreign-invested companies |

| <b>Type of business</b>  | <b>Conditions for application</b>  |
|--|--|
| Manufacturing business   | Investment of \$30 million or more   |
| Tourism business   | Investment of \$20million or more  |
| Logistics business   | Investment of \$10million or more  |
| Research centers   | Investment of \$2 million or more, hiring 10 or more master's degree holders |
| SOC business   | Investment of \$10million or more  |
| Two or more foreign businesses   | Investment of \$30million or more by two or more foreign invested businesses |
| Computer programming business; system integration and management business; or data processing, hosting, and other related service business | Investment of \$30 million or more   |

**c. FDIs entering the Free Economic Zone(FEZ), Free Trade Zone, or Complex-type Foreign Investment Zone (FIZ)**

| <b>Tax</b>                                       | <b>Incentives</b>   |
|--|---|
| Individual and corporate income taxes            | Full exemption for 3 years, 50% reduction for next 2 years  |
| Local taxes: acquisition, property, registration | Full exemption for 3 years, 50% reduction for next 2 years (local governments can extend the period up to 15 years) |
| Customs duties                                   | Full exemption for 5 years on imported capital goods by foreign-invested companies                                  |
| <b>Type of business</b>                          | <b>Conditions for application</b>   |
| Manufacturing business                           | Investment of \$10 million or more  |
| Logistics business                               | Investment of \$5million or more  |
| Tourism business (FEZ)                           | Investment of \$10million or more   |
| Research centers                                 | Investment of \$1 million or more, hiring 10 or more master's degree holders  |

|  |                                    |
|--|------------------------------------|
| Engineering business, telecommunication business, business for computer programming & system integration and management, information service and other technology service business, motion picture, video and broadcasting programs production business, game software development and distribution business, performing arts services | Investment of \$10 million or more |
|--|------------------------------------|

**d. FDIs Entering the Development District of Enterprise New Town**

| <b>Tax</b>   | <b>Incentives</b>   |
|--|---|
| Individual and corporate income taxes  | Full exemption for 3 years, 50% reduction for next 2 years  |
| Local taxes: acquisition, property, registration   | Full exemption for 3 years, 50% reduction for next 2 years (local governments can extend the period up to 15 years) |
| <b>Type of business</b>  | <b>Conditions for application</b>   |
| Manufacturing business, etc.   | Investment of \$10 million or more  |
| Research & Development   | Investment of \$1 million or more   |
| Logistics business   | Investment of \$5 million or more   |
| Engineering business, telecommunication business, business for computer programming & system integration and management, information service and other technology service business, motion picture, video and broadcasting programs production business, game software development and distribution business, performing arts services | Investment of \$10 million or more  |
| Tourism  | Investment of \$10 million or more  |

## 16. Tonnage Taxation System

Originally shipping income from a shipping company is computed based on the corporation tax. However, as major shipping nations rushed to introduce tonnage taxation system that imposes tax by reference to such as total tonnage of shipping operation and the number of shipping operation regardless of its actual income, Korea decided to introduce tonnage-based taxation system in order to enhance international competitiveness. Under the new regime, a shipping company, which meets a certain requirement, will have to elect to be taxed based on the tonnage taxation system.

### a. Qualification

A qualifying company is a domestic company, which carries on ocean-going service under the shipping act and the total tonnage of shipping operation per year by chartered ship (chartered less than 2 years) shall be within 5 times of that of shipping operation per year by a standard ship (owned by a company or chartered for 2 years or more).

### b. Tax Base

Tax base of a shipping company = (1) + (2)

(1) The sum of shipping income per ship

Shipping income per ship: shipping standard profit

Shipping standard profit per ship =

(Tonnage per ship × profit per ton per day) × days of operation × utilization rate

(2) Non-shipping operation income (income other than shipping income): An amount of income calculated based on the provisions of corporation tax law.

**c. Application Period**

A shipping company, which elects to be taxed on the tonnage taxation system, will be subject to the system for the consecutive five years beginning from the business year, in which it wish to be applied with this regime.

**d. Net Operation Loss (NOL)**

NOL incurred from non-shipping income shall not be included in the computation of a tax base of a shipping company under the tonnage taxation system. Also NOL incurred before a shipping company is subject to this regime shall not be deductible in the computation of shipping and non-shipping incomes.

**e. Exclusion of Special Treatment**

Where income subject to withholding tax is included in the shipping income, the withheld tax amount shall not be deductible as pre-paid tax.

**17. Cash Receipt System**

Details of cash transaction between a vendor issuing receipts and a consumer are reported to NTS by the vendor and the customer is allowed deduction from income on his or her tax return based on the amount of cash transactions. This regime is introduced to improve compliance of the self-employed.

**a. “Cash Receipt”**

Where a vendor who registers as a cash receipt member receives cash in compensation for services and goods rendered to a customer, the vendor is obliged to issue to the consumer cash receipts using electronic devices through which transactions are electronically reported to National Tax Service. The threshold for issuing cash receipt has been eliminated in accordance with Paragraph 3 Article 121 of the enforcement decree of Special Tax Treatment Control Law. All transactions are entitled to the issuance of cash receipt.

**b. Vendor’s Obligation and Tax Benefit**



- (1) Vendor's obligation: A vendor is required to send electronically to the head of NTS details regarding cash transactions such as the date and amount of transactions, and personal data of consumers and vendor.
- (2) Vendor's tax benefit: A vendor, who is approved by the head of NTS through cash receipt deliberation committee, is allowed to get deductions from paid VAT or get refund by reference to the number of cash receipt issuing devices and the number of cash receipts transaction.

## **18. Earned Income Tax Credit (EITC)**

### **a. Background**

Currently, the working poor who are employed but still live in poverty mostly are not under the protection of 4 major social insurance programs and the Scheme to Guarantee Minimum Level of Living Standard. Therefore they are in need of separate assistance.

Against this backdrop, the earned income tax credit (EITC) has been introduced with a view to establishing a social safety net targeting the working poor. The EITC is expected to provide the following benefits:

- (1) Lift low-income workers out of poverty by helping them keeping more of what they work for
- (2) Reinvigorate economic activities, thereby contributing to the creation of a virtuous circle of welfare and growth
- (3) Help identify as much as income earned by low-income families, enhancing efficiency/ equity of tax and welfare administration

Enacted in 2006, the EITC is scheduled to be paid from the year 2009 for which the credit will be calculated based on earned income accumulated by each claimant in 2008.

### **b. Eligibility**

The EITC will be granted to households with earned income from employment meeting the following requirements:

- (1) The applicant must have total annual income (the combined sum of total annual income of the applicant and his/her spouse) less than the standard total

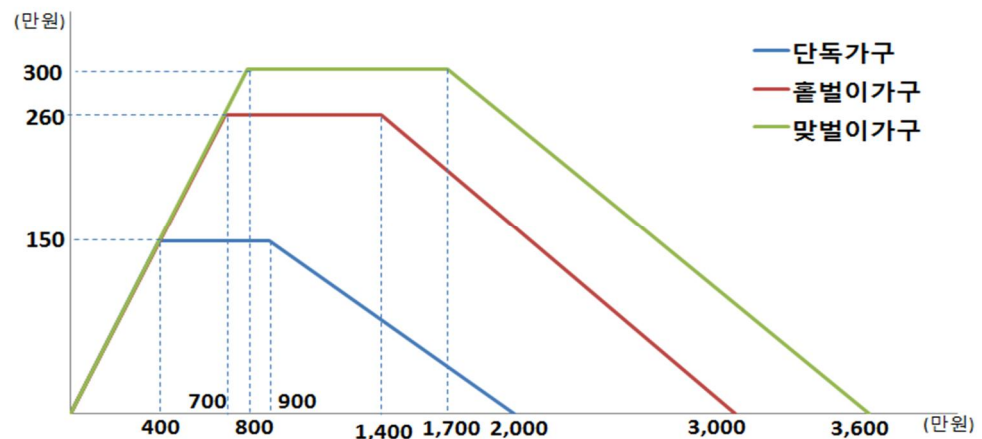
annual income (interest, dividend and business income etc. included) that is determined according to the type of households (i.e. households without spouse and dependent children, single-income households, and double-income households) determined pursuant to the composition of family members.

- \* Household without a spouse or dependent child: 20 million won
- Single-income household: 30 million won
- Double-income household: 36 million won

(2) Value of all property (e.g. land, building, bank deposit, shares, bonds, etc.) held must be less than 200 million won

**c. Size of Credit**

The amount of the credit is calculated based on the combined sum of total annual income of the applicant and his/her spouse.



- \*Green line: Double-income household
- Red line: Single-income household
- Blue line: Household without a spouse or dependent child

(1) Households without spouse and dependent children

| Total payments, etc (won) | EITC payment (won)  |
|---------------------------|---|
| Less than 6 million       | Total payments, etc $\times$ 150/400                              |
| 4 – 9 million             | 1.5 million as fixed amount                                       |
| 9 – 20 million            | 1.5 million – (total payments, etc– 9 million) $\times$ 150/1,100 |

(2) Single-income households

| Total payments, etc (won) | EITC payment (won)  |
|---------------------------|---|
| Less than 7 million       | Total payments, etc $\times$ 260/700                              |
| 7 – 14 million            | 2.6 million as fixed amount                                       |
| 14 – 30 million           | 2.6 million – (total payments, etc– 14 million) $\times$ 260/1600 |

(3) Double-income households

| Total payments, etc (won) | EITC payment (won)  |
|---------------------------|---|
| Less than 8 million       | Total payments, etc $\times$ 300/800                            |
| 8 – 17 million            | 3 million as fixed amount                                       |
| 17 –36 million            | 3 million – (total payments, etc– 17 million) $\times$ 300/1900 |

**d. Application and Refund**

To receive the EITC, taxpayers have to complete and submit the EITC application form containing information that substantiates their eligibility to the tax office having jurisdiction over their residence during the period from 1<sup>st</sup> to 31<sup>st</sup> of May. But, in the case a resident and his/her spouse have income comprised only of earned income, the amount arising in the early half of the year has to be filed from September 1 to 15 in the year concerned and that arising in the latter half, from March 1 to 15 in the following year.

Within 3 months after the deadline, the tax office concerned determines the applicant's eligibility by comparing what has been reported on the application form with the wage and tax statement submitted by the employer. If necessary, the tax authorities may request the applicant to submit additional documentation substantiating his/her eligibility for the EITC. Once it is determined that the applicant is entitled to the credit, the credit is paid to him or her within 30 days from the date of determination.

Taxpayers are able to check their earned income with the help of the Home Tax Service operated by the National Tax Service, and can also easily figure the amount of the EITC to claim by utilizing the EITC Calculation Table showing the breakdown of tax credit amount for each earned income amount.

**e. Fraudulent Claims**

In the case of reckless or intentional disregard of the EITC rules, the applicant concerned cannot claim the credit for the next 2 years. If fraud is found to have been involved, the applicant cannot claim the EITC for the next 5 years.

**19. Partnership Taxation System (Effective from January 1, 2009)**

**a. General**

Partnership Taxation system is a regime which treats a partnership as simply a conduit through which the profit (income) or loss of the partnership are passed onto partners.

**b. Qualification**

One of the following partnerships may elect to be taxed based on the partnership taxation system; however, a partner of the partnership which is subject to the partnership taxation system shall not adopt the partnership taxation system, even if such partner also falls under one of the following:

- (1) An association (Johap under the Civil Law)
- (2) An anonymous association (IkmyongJohap under the Commercial Code)
- (3) An unlimited company (HapmyongHoesa or HapjaHoesa under the Commercial Code), including a Private Equity Fund (PEF) under the Capital Market Consolidation Act
- (4) Other similar groups or groups mostly rendering personal services under special law:

- (a) Association: legal association
- (b) Unlimited company: legal, patent and labor law corporations and joint corporations of judicial agents
- (c) YH company(YuhanHoesa): legal, accounting and customs law corporations

In the case where PEF elects to be applied to partnership taxation system, exceptions including easing the limitation of profit/loss allocation ratio shall be allowed considering its natural features.

#### **c. Application and Waiver**

Partnership is required to file an application or waiver form to the concerned tax office before the opening day of taxable year when the partnership taxation system is to be applied or waived (or within 1 month from the opening day of the first taxable year, if the partnership is newly established); however, the waiver is not allowed for five years since the application is filed.

#### **d. Taxation**

A partnership adopting the partnership taxation shall not be subject to taxation on its income, while its partners shall be liable to pay income or corporate tax on their income allocated therefrom.

##### **(1) Calculation and allocation of income or loss**

Partners are categorized into four partner groups (resident, non-resident, and domestic corporation or foreign corporation). Income or loss shall be calculated by each group and allocated to the relevant partners at their profit/loss allocation ratio on the closing day of each taxable year; however, limited partners shall be excluded from the loss allocation.

Loss to be allocated to each partner shall be within the limit of its outside basis at the closing day of the taxable year, and the amount exceeding the outside basis shall be carried forward for the next 10 taxable years.

Income and loss allocated from the partnership to its partners shall be regarded as the partners' gain and loss in the categories under the Income and Corporation Tax Laws (but income allocated to a limited partner shall

be regarded as its dividends), and shall be included in the income and corporate tax base of such partner for the taxable year to which the closing day of the partnership's taxable year belongs.

\*Each group's income or loss (subject to allocation)

= Partnership's income or loss on a group basis × each group's profit/loss ratio

(a) Partnership's income or loss on a group basis

= Income or loss in the taxable year calculated by considering partnership as one resident, non-resident, domestic corporation, or foreign corporation on a group basis

(b) Each group's profit/loss ratio

= The aggregate of partners' profit/loss ratios on a group basis

\* Limited partners : Partners who only invest in a partnership without engaging in the management (excluding those who allow their name and business' name to be used, who agree to bear partnership's unlimited liability and who are the partnership's executives, or a PEF's limited partners)

## (2) Allocation of Tax Amount

A partnership shall be considered as a domestic corporation in calculating tax credit, tax reduction and exemption, withholding tax, additional tax and corporation tax on capital gains from the transfer of real estate. Such tax amount shall be allocated to the partners (corporation tax on capital gains from the transfer of real estate shall be allocated only to the corporation partners) at their profit/loss allocation ratio on the closing day of each taxable year, and shall be deducted from or added to the partner's income or corporation tax amount to be filed and paid for the taxable year to which the closing day of the partnership's taxable year belongs.

## e. Transactions between Partnership and Partners

In the case where a partner has a transaction, not as a partner but as an outsider, with the partnership in which it participates, both shall recognize the earnings/cost from the transaction as their gain/loss when calculating their income/loss of the taxable year, and when the partnership or the partner turned out to reduce their income without due reason, the denial of unreasonable practice under the Corporation Tax Law shall be applicable.

## f. Transfer of Partnership Share and Asset Distribution

### (1) Adjustment of Outside Basis

Outside basis is defined as the book value of a partner's partnership interest,

which serves as the basis for computing taxable income in connection with transfer of partnership interest or distribution of partnership property.

The partner's first outside basis is calculated by multiplying the total investment amount of partnership by the investment ratio of the partner as of the closing day of immediate preceding taxable year of the first taxable year to which partnership taxation system is applied (as of the commencement day of relevant taxable year in the case of being applied from the taxable year into which falls the day of establishment of the partnership).

In the case where a partner invests into a partnership, purchases, inherits or receives the share of a partnership, or where a partnership allocates its income to a partner, the partner's outside basis shall be adjusted upward as much.

In the case where a partnership distributes its asset to a partner, or a partner transfers, bequeaths or gifts the share of a partnership, or a partnership allocates its loss to a partner, the partner's outside basis shall be adjusted downward as much. But the downward adjustment is limited to zero.

## (2) Transfer of Partnership Share and Asset Distribution

Transfer of a partner's share of a partnership shall be considered as stock transfer. The capital gain therefrom shall be calculated by considering his outside basis as acquisition cost, and be subject to capital gains tax or corporate income tax.

When the partnership's asset is distributed to a partner and its market price is higher than the partner's outside basis on the day of distribution, the excess shall be considered as dividend income, and be subject to income or corporate tax.

When the market price of distributed asset is lower than the partner's outside basis on the day of distribution, the shortage shall be considered as stock loss as long as the partnership ends due to liquidation, separation and merger or the partner withdraws from the partnership.

## **g. Reporting Obligation of Income and Distribution Return**

A partnership is required to report a taxable year's income and distribution return to the head of the competent tax office by the 15th day of the month, which is the third month after the month to which each taxable year's closing

day belongs. (Balance sheet, income statement in accordance with corporate accounting standards and outside basis adjustment statement need to be attached.)

In the case where a partnership violates reporting obligation, penalty tax will be imposed: 4% of the income supposed to be reported in the case of non-reporting, 2% of income in the case of under-reporting.

#### **h. Withholding Tax Obligation on Income Allocated to Non-resident or Foreign Corporation Partners**

When a partnership files a taxable year's income and distribution return (when distributing in the case of distributing non-reported amount), the highest tax rate will apply (non-resident 35%, foreign corporation 25%) if the income distributed to a non-resident or a foreign corporation partner belongs to the domestic place of business (the place where a partnership runs a business) in the year.

Unless the income does not belong to domestic place of business, withholding tax rate will apply to a non-resident or a foreign corporation partner despite non-taxation, exemption and Alternative Minimum Tax (AMT) rate under tax treaty.

According to the above-mentioned tax rates, income or corporate income tax are required to be withheld and paid to the head of competent tax office.

When a non-resident foreign corporation partner (who received the income, which does not belong to domestic place of business and whose tax has been withheld and paid) wants to benefit from non-taxation, exemption or AMT under tax treaty, claiming for revision is possible within three years from the last day of the month when tax-withholding day belongs to.

In the case where a partnership violates withholding tax obligation, penalty tax will be imposed: { The greater one between {unpaid or underpaid tax liability × The number of days (from the next day of the due date for payment to voluntary payment day or to due date for payment notice day) × 0.025%/day)} and {unpaid or underpaid tax liability × 3%}, The maximum is {unpaid or underpaid tax liability × 10%} }



*Part 6: International Taxation*

**Chapter XVI: Non-Resident Income Taxation**

**1. Taxation on Business Income (Profits)**

**a. Taxation Rules Provided by Domestic Tax Laws**

(1) Definition of Domestic Place of Business (Permanent Establishment)

In general, Korean tax treaty cannot be applied in a way that gives rise to more tax burden to taxpayers than stipulated in domestic tax laws. Therefore, the scope of the Domestic Place of Business found in Korean tax laws needs to be wide enough to cover the concept on Permanent Establishment or on Fixed Base of the UN Model Tax Treaty so that no problem is caused in the application of tax treaties even when Korea has to adopt the languages of PE from the UN Model Tax Treaty, accepting requests from the other contracting state in tax treaty negotiations. This explains that the definition of a Domestic Place of Business found in Korean domestic laws is mainly based on the concept of a permanent establishment or on a fixed base specified in the UN Model Tax Treaty.

If a non-resident (including a foreign corporation) has a fixed place of business in Korea of a type described in the following subparagraphs (a) through (f), he is considered to have a domestic place of business in Korea:

- (a) A branch or any other business office
- (b) A store or any other fixed sales place
- (c) A workshop, factory, or warehouse
- (d) A building site, a location of construction, assembly or installation work, or a place for providing supervision of such work, any of which exists for more than 6 months
- (e) A place (i) where services are provided through any employee only if activities therein are carried on for a period exceeding 6 months in aggregate out of consecutive 12 months, or (ii) where similar services are provided through any employee continuously or repeatedly throughout 2 years or longer, if not for a period exceeding 6 months in aggregate out of consecutive 12 months

- (f) Mines, quarries or any other place of exploration or extraction of other natural resources as well as marine natural resources including those on the seabed or subsoil adjacent to the coast within which the sovereign rights of the Republic of Korea may be exercised, outside its territorial waters, in accordance with the international law

The domestic places of business prescribed in the preceding paragraph do not include the fixed place used by a non-resident only for activities of a preparatory or auxiliary nature for a business operation, e.g. places

- (a) for the purchase of assets;
- (b) for storage or custody of assets for non-business purposes;
- (c) for advertisement, public relations, collection or furnishing of information, market survey or other activities of a preparatory or auxiliary nature for a business operation; or
- (d) for the purpose of having other persons process property of the non-resident.

If a non-resident having no fixed place in Korea carries on a business through a person in Korea who is authorized to conclude, and regularly does conclude contracts (i) in the name of the non-resident, (ii) for the transfer of the ownership of, or for the granting of the right to use, property owned by that non-resident or that the non-resident has the right to use, or (iii) for the provision of services by that non-resident, such non-resident is deemed to have a Domestic Place of Business in Korea.

## (2) Scope of Domestic-source Business Income (Profits)

Korea's domestic-source business income of a non-resident (including a foreign corporation) includes income from the following businesses carried on within Korea and income subject to tax as domestic-source business income, except for income from personal services.

- (a) Agriculture, forestry and fisheries
- (b) Mining
- (c) Manufacturing
- (d) Electricity, gas, steam and water services
- (e) Sewerage, waste disposal, regeneration of raw materials and environmental restoration services

- (f) Construction business
- (g) Wholesale and retail business
- (h) Transportation business
- (i) Accommodations and restaurant business
- (j) Publication, video, broadcasting communication and information services
- (k) Banking and insurance
- (l) Real estate and leasing business
- (m) Professional, scientific and technological services
- (n) Business facilities management and business supporting services
- (o) Education services
- (p) Health and social welfare services
- (q) Arts, sports and entertainment related service business
- (r) Associations and bodies, repairing and other personal service business
- (s) Household services
- (t) Other businesses similar to those listed above that are for profit under the owner's consideration and responsibility and involve continuous and repetitive activities

(3) Guiding Principles for Determining the Portion of Domestic Source of Business Income (Profits)

Since a non-resident's income from a business carried on both at home and abroad usually consists of domestic-source portion and foreign-source one, there is a need for guiding principles to ensure taxation on only domestic-source business income. Thus, instead of relying on a general principle such as the "arm's length principle", Korean domestic tax laws provide some detailed guidelines by which certain income is deemed to arise in Korea. Examples are as follows:

(a) Income from manufacturing business or wholesale business

Where inventories are transferred from abroad to a non-resident (including a foreign company) and the non-resident sells them within Korea without conducting any manufacturing, processing and any other value-adding

activities (hereinafter referred to as “manufacturing process”) abroad for such inventories, whether or not such inventories go through manufacturing process within Korea before selling, all income or profits generated from the transactions are deemed to have a domestic-source.

In the case the non-resident purchases inventories abroad and sells them within Korea after conducting manufacturing process abroad for those inventories, the income amount equivalent to what would have been incurred had he purchased, according to ordinary transaction terms, from an unrelated party the inventories to which manufacturing process had been already conducted by that unrelated party is deemed to be domestic-source income.

If the non-resident conducts manufacturing process for the inventories within Korea and transfers them to the headquarter or any other PE abroad before selling them to an independent third party abroad, the income amount equivalent to what would have been incurred from manufacturing process done within Korea if the inventories undergoing manufacturing process at home had been sold directly to other unrelated person abroad according to ordinary transaction terms is deemed to be domestic-source income.

(b) Income from construction business

Where a non-resident concludes a contract abroad with regard to construction, installation, assembly, etc. and/or procures staff and materials necessary for the work while undertaking actual works within Korea, all income incurred from such actual works is deemed to have a domestic-source. This rule is based on the premise that since construction business is basically a type of service industry, the conclusion of a contract or procurement of staff and materials can be regarded as one of the preliminary business activities and, thus, is deemed to generate no income. This naturally leads to a conclusion that taxation on business income regarding construction activities should be made in a state where actual services are performed.

(c) Income from insurance business

Where a non-resident carries on insurance business both at home and abroad, income from an insurance contract concluded through domestic sales office or a domestic agent is deemed to be domestic-source income.

(d) Income from advertisement by publishing and broadcasting businesses

Where a non-resident carrying on publishing or broadcasting business undertakes advertisement for other person both at home and abroad, only income from advertising services rendered within Korea is regarded as domestic-source income.

(e) Income from investment in shares issued by foreign corporations

Income resulting from investment in shares issued by foreign corporations which are listed or registered on the Stock Exchange stipulated by the Securities Transaction Tax Law or the KOSDAQ Market or other similar investment is deemed to be domestic source income of Korea.

(f) Income from other businesses

Where a non-resident carries on business not dealt with above both at home and abroad, only income generated in relation to domestic work regarding the business concerned is deemed to have a domestic-source. Income generated in relation to domestic work means income which would be generated in relation to domestic work if two independent traders were responsible for domestic and international work respectively and they conducted a transaction at price to be determined based on ordinary contract terms. Income generated in relation to domestic work may also be understood as income in relation to domestic work determined by factors which are regarded as reasonable for measuring revenue, expenditure or income, etc.

(4) Income incurred abroad but attributable to a PE within Korea

If the following income, although incurred abroad, is attributable to a PE in Korea, such income is deemed to be of domestic-source:

- (a) Income from investment in overseas securities, lending to a person abroad or performance of other similar activities
- (b) Income from the rental, licensing, transfer or exchange of properties or rights abroad
- (c) Income from the issuance, acquisition, transfer or exchange of securities, bonds, etc. abroad

## **b. Taxation Principles Adopted by Korean Tax Treaties**

Most Korean tax treaties have adopted the OECD taxation principles with regard to Article on business profits. However, when it comes to Article on Permanent Establishment, (hereinafter referred to as “PE”, the same concept as “domestic business place” under Korean domestic tax laws) not only the OECD Model but also the UN Model has been frequently used as reference material in tax treaty negotiations, causing differences in details of the Article.

### **(1) Scope of Business profits**

In most Korean tax treaties, business profits are just broadly defined as “profits of an enterprise” or “industrial or commercial profits of an enterprise” unlike limited definition in the Korean tax laws. However, such treaties do limit the scope of business profits by specifying that when such profits are dealt with separately in other articles, then the provisions of those articles shall not be affected by the Article on business income.

Therefore, interest, dividends, royalties, income from immovable property, capital gains, income from the rendering of personal services, income from the operation of ships or aircraft in international traffic, etc. which are handled in separate articles of a tax treaty are not treated as business income even when they are incurred from business activities of an enterprise. It should be noted, however, that in the case such interest, dividends or royalties are effectively connected with a PE in Korea of a non-resident or a foreign company, such income is deemed as business profits and thus not subject to separate taxation based on reduced tax rate under a tax treaty.

### **(2) Taxation Principles Adopted by Tax Treaties**

#### **(a) Non-taxation in the case there is no PE**

While domestic-source business profits of a non-resident may be taxed even without its PE in Korea under the Korean tax law, such profits may be taxed in Korea only when the non-resident has a PE in Korea under tax treaty.

#### **(b) Scope of taxable income**

There are two principles for the determination of the scope of taxable business income of an enterprise of a contracting state which has a PE

in the other contracting state: the attribution principle and the force of attraction rule.

According to the attribution principle, business profits of the enterprise that is effectively attributable to the PE may be taxed in the other contracting state. By contrast, according to the force of attraction rule, all business profits incurred in that other contracting state may be taxed in that state regardless of whether such profits are attributable to the PE or not. All tax treaties Korea has concluded have adopted the attribution principle except for those with Indonesia and Mexico.

(c) Arm's length principle

According to the arm's length principle, profits attributable to a PE should be determined based on profits that would have been expected from a transaction between independent enterprises. From legal perspective, a PE is a part of the enterprise and thus transaction between the two is inter-company transaction, meaning that there are more chances of tax avoidance attempts by way of arbitrary manipulation than in the transaction between independent parties. The arm's length principle is designed to eliminate such chances, thereby help determine reasonable profits attributable to the PE. According to this principle, profits attributable to a PE mean profits which it might be expected to make if it were a distinct and separate enterprise and carried out a transaction with the enterprise which it is part of based on ordinary market price or open market terms. The arms' length principle has been adopted by all tax treaties Korea has concluded.

(d) Deduction of expenses

In determining the profits of a PE, there shall be allowed to deduct expenses which are incurred for the purposes of the PE, including executive and general administrative expenses so incurred, whether in the state in which the PE is situated or elsewhere and this principle has been adopted in all tax treaties Korea has concluded. Among expenses of a head office of the enterprise which a PE in Korea is part of, expenses which are directly incurred for the purposes of the PE are no doubt allowed as deductible expense in determining its taxable profits. When it comes to indirect expenses incurred in the head office such as executive and general administrative expenses, they are incurred not only for purposes of the PE in Korea but also for the purposes of other

PEs or departments of the enterprise, and, thus, the portion attributable to the PE concerned shall be determined according to the factors (such as sales amount, assets value, personal expenses) by which fair amount of expenses of the PE is reasonably estimated.

(e) Non-taxation principle in the case of the mere purchase by a PE

This principle, adopted by most Korean tax treaties, means that no profits shall be attributed to a PE by reason of the mere purchase by that PE of goods or merchandise for the enterprise. For example, even if a branch in Korea of a Japanese corporation merely purchases goods or merchandise within Korea for its overseas branch (located in a state other than Korea), paragraph 5 of Article 7 of the Korea – Japan Tax Treaty shall apply and, as a result, no profits will be regarded as being attributable to the PE in Korea by reason of such mere purchase.

## **2. Taxation on Investment Income**

### **a. Taxation on Interest Income**

(1) Taxation Rules Provided by Domestic Tax Laws

(a) Domestic-source interest income

Interest income derived by a non-resident (including a foreign company) under the Korean tax law is taxable in Korea in the case where it is received by the non-resident from Korean government, local authorities, residents (including domestic corporations), or PEs in Korea of foreign corporations or non-residents. Where the interest paid by a foreign corporation or a non-resident in a state is in connection with a PE of the foreign corporation or the non-resident in that state and is included in the necessary expenses or loss of the PE when its income amount is calculated, the interest shall be deemed to arise in the state where the PE is situated. However, interest on loans borrowed directly by a foreign place of business of a domestic corporation or resident for that foreign business place is excluded from the scope of domestic-source interest income.

Detailed items of domestic-source interest income are stipulated in domestic tax laws as follows:

- i) Interest and discounts on bonds or securities issued by the state, local authorities, or domestic corporations



- ii) Interest on savings deposits payable in Korea
- iii) Gains realized from mutual credit financing or credit installment savings under the Mutual Credit Financing Institution Law
- iv) Interest and discounts on bonds or securities issued by any branch or business office in Korea of a foreign corporation
- v) Interest and discounts on bonds or securities issued by a foreign corporation
- vi) Gains realized by security companies from repurchase arrangements involving bonds or stocks having a fixed repurchase term and a predetermined interest rate as prescribed in Article 24 of the Presidential Decree of the ITL
- vii) Gains realized from certain savings-type insurance policies as prescribed in Article 25 of the Presidential Decree of the ITL
- viii) Excess repayment of membership fee of mutual-aid association of a company as prescribed in Article 26 of the Presidential Decree of the ITL
- ix) Gains on non-commercial loans
- x) Income similar to items i) through ix) above, which is in the nature of compensation for the use of money

(b) Rules for determining domestic-source interest

In general, interest income is deemed to have a source in the payer's state of residence as indicated in the definition of domestic-source interest income under the domestic tax law above.

(c) Tax-exempt interest

Under the Special Tax Treatment Control Law (STTCL), certain types of interest income of a non-resident (including a foreign corporation) are exempted from withholding taxes.

- i) Interest paid by domestic residents or corporations in return for using foreign loans provided by International Financial Institutions or Foreign Governments under subparagraph 6 of Article 2 of the Introduction and Management of Public Loans Law

- ii) Interest and commission, received by a non-resident or foreign corporation, on foreign currency bonds issued outside Korea by the state, a local authority or any domestic corporation
- iii) Interest and commission payable on foreign currency liabilities borrowed from a foreign financial institution and repayable in foreign currency by any financial institution authorized to do foreign exchange business under the Foreign Exchange Transactions Law (FETL)
- iv) Interest and commission on Certificates of Deposit in foreign currency from non-residents, and on notes issued or sold in foreign countries by any financial institution authorized to do foreign exchange business under the FETL
- v) Income derived from foreign currency time deposits opened by a non-resident or a foreign company with a maturity of one year or more (except when withdrawing the principal or interest during the period of the contract)

## (2) Taxation Principles Adopted by Korean Tax Treaties

### (a) Scope of interest income

In most of tax treaties which Korea has concluded, interest income is broadly defined as “income from debt-claims of every kind”.

### (b) Rules for determining domestic-source

All tax treaties which Korea has concluded stipulate that interest is deemed to have sources within a state of which the interest payer is a resident. However, it is also laid down that the person paying the interest has in a state a PE in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such a PE, then such interest shall be deemed to arise in the state where the PE is situated.

Some of tax treaties that Korea has concluded provide that some interest received by the government or quasi-governments of the other state shall be exempted from tax in a state in which such income is incurred. The scope of quasi-governments generally covers local authorities, the central bank, financial institutions the capital of which is owned by the government and the central bank. Some tax treaties have the provision which prescribes that interest on loans guaranteed or granted by an export-import bank is tax-exempt.

### (c) Interest paid in connection with the sale on credit, etc.

According to the tax treaties which Korea has concluded with France, Austria, Belarus, Germany, Malta, Morocco, etc., interest paid in connection with the sale on credit of any industrial, commercial or scientific equipment and merchandise is included in the scope of interest income (Under the domestic tax law, such interest is classified as business income). In the case of the treaty between Korea and Egypt, interest paid in connection with debt-claims secured by immovable property is regarded as income from immovable property (Under the domestic tax law, such interest is treated as interest income). In general, income classification under a tax treaty takes precedence over that under a domestic tax law.

(d) Reduced tax rates

Under tax treaty, interest income derived by non-residents may be taxed in a state in which the income is incurred in accordance with relevant domestic tax law of that state. Where the interest is received by a beneficial owner thereof, however, the tax rate shall not exceed a reduced rate provided for under tax treaties which generally range from 5% to 15%. Under treaties with Hungary, Ireland and Russia, however, interest which arises in one contracting state and is received and beneficially owned by a resident by the other contracting state shall be taxable only in that other state.

(e) Arm's length principle for controlled transactions

Where by reason of a special relationship between the payer and the beneficial owner of interest or between both of them and some other person, the amount of the interest exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of the Article regarding the application of a reduced tax rate apply only to the last-mentioned amount and the excess part of the payment remain taxable according to the laws of each state.

**b. Taxation on Dividend Income**

(1) Taxation Rules Provided by Domestic Tax Laws

(a) Domestic-source dividend income

Under the domestic tax law, domestic-source dividend income of a non-

resident (including a foreign company) means the following items of income received by the non-resident from domestic corporations or non-corporate entities in Korea:

- i) Dividends of profits or distribution of surplus from a domestic corporation or an institution deemed as a corporation
- ii) Deemed dividends as enumerated below:

| <b>Classification</b>  | <b>Tax base</b>  |
|--|--|
| Reduction in paid-in capital   | The value of property received as a consequence of capital reduction minus the acquisition cost of the shares of the corporation |
| Bonus issue of shares in the case of the transfer of surplus of a corporation into its paid-in capital   | Number of bonus shares multiplied by its face value  |
| Distribution of treasury stocks in the case of the transfer of the capital reserve or asset revaluation reserve (valid only when certain conditions are met) | Number of shares multiplied by its face value  |
| Distributions after the liquidation  | The value of property received after the liquidation minus the acquisition cost of the shares of the dissolved corporation       |
| Distributions on the merge of corporations   | The value of property received on the merge minus the acquisition cost of the shares of the ceased corporation                   |
| Distributions on a corporate division  | The value of property received on a corporate division minus the acquisition price of the share before division                  |

- iii) The amount disposed as dividends according to the Corporate Tax Act or the amount deemed as dividends according to Article 17 of the Law for Coordination of International Tax Affairs
- iv) Profits from the Collective Investment Vehicle received within or outside Korea under Article 26-2 of the Presidential Decree of the Income Tax Law

- v) Income similar to items (i) through (iv), having the nature of distribution of profits
- vi) The amount distributed to investors of a joint business based on profit-and-loss distribution ratio as prescribed in paragraph 1 of Article 43 of the Income Tax Law out of income derived from the joint business under Article 43 of the Income Tax Law

(b) Tax-exempt dividends in relation to qualified FDI

Where dividends are received by foreign investors from a foreign-invested company carrying on businesses eligible for relevant tax incentives, tax exemption is allowed. To benefit from tax incentives of this category, business concerned has to be foreign investment under the Foreign Investment Promotion Law and be one of the following businesses as prescribed in Article 116-2 of the Presidential Decree of the STTCL:

- i) Industry supporting service business and advanced technology business which are essential for reinforcement of international competitiveness of domestic industry
- ii) Business carried on by a foreign-invested company which moves into the Foreign Investment Zone under Article 18 of the Foreign Investment Promotion Law
- iii) Business carried on by a foreign-invested company which moves into the Free Economic Zone under subparagraph 1 of Article 2 of the Law on Designation and Management of the Free Economic Zone
- iv) Business carried on by a foreign-invested company carrying out development project within the Free Economic Zone under paragraphs 1 and 2 of Article 8-3 of the Law on Designation and Management of Free Economic Zone
- v) Business carried on by a foreign-invested company carrying out development project in the Investment Promotion District in Jeju Island designated under Article 217 of the Special Law on Free International City of Jeju Island
- vi) Other business for which tax incentives are badly needed in order to attract foreign investment

## (2) Taxation Principles Adopted by Korean Tax Treaties

### (a) Scope of dividend income

Under tax treaties Korea has concluded, dividends mean “income derived from shares or other rights, not being debt-claims, participating in profits” and “income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the state of which the company making the distribution is a resident.” This is similar to dividend income under Korean domestic tax law.

### (b) Application of a reduced tax rate

Dividends received by a non-resident (including a foreign company) from a domestic corporation may be taxed in Korea where such income is derived. However, the tax rate higher than a certain rate (reduced tax rate under tax treaty) shall not apply. Reduced tax rates vary depending on tax treaties, but generally range from 5 to 15%. In some cases, different reduced tax rates apply depending on whether the recipient is an individual or a corporate body.

## c. Taxation on Royalty Income

### (1) Taxation Rules Provided by Domestic Tax Laws

#### (a) Domestic-source royalty income

Domestic-source royalties received by a non-resident (including a foreign company) under the Korean tax law mean consideration paid in Korea or accrued for the use of or right to use in Korea the following properties or information, and gains realized from the transfer of such properties or information regardless of whether such properties and rights are registered on an official list or not.

- i) Copyright of academic or artistic work (including cinematograph films), patent, trademark, design or model, plan, secret formula or process, films and tapes for radio and TV broadcasting or other similar assets or rights

- ii) Information or know-how concerning industrial, commercial or scientific knowledge or experience.

Basically, Korean tax laws treat royalties having a Korean source when they are derived from the right to use properties or information within Korea or when such royalties are paid in Korea. However, where a tax treaty specifies that royalties are treated as having a source of a state only when they are derived from the right to use properties or information within that state, any consideration paid for the use of properties or information abroad shall not be deemed as having a Korean source

- (b) Rules for determining domestic-source

For royalties to be treated as having a Korean source under the Korean tax law, properties, information and rights in relation to which royalties are paid have to be used within Korea or such royalties have to be paid in Korea. Previously, only those royalties paid for the use of properties within Korea were deemed as having a Korean source. However, since the amendment of the relevant tax law in 1988, payments made within Korea have been regarded as domestic-source income even if properties concerned are used abroad, unless tax treaties specify the income concerned should be deemed to have a source in the place where properties concerned are used.

- (c) Consideration for know-how to be used in overseas branch of a domestic corporation

Where a domestic corporation pays consideration for the use of properties, rights or information from a foreign corporation without a place of business in Korea and then use them through an overseas branch or construction site located in a third state, consideration for such use is treated as royalties having a domestic source.

- (d) Taxation on imported software

Even when customs duties are imposed on consideration for the introduction of technical information or software which is imported in the form of plan, tape or disk, such consideration is treated as royalties regardless of the imposition of customs duties if consideration for such technical information or software falls on the scope of royalties under domestic tax laws.

## (2) Taxation Principles Adopted by Korean Tax Treaties

### (a) Scope of royalty income

Scope of royalty income may somewhat differ depending on tax treaties, but all of them define royalties as payments of every kind as specified in the following:

- i) Consideration for the use of or the right to use of copyright of scientific, artistic or academic work, patent, trademark, design, model, plan, secret formula or process

Under tax treaties Korea has concluded with Japan, the US, Singapore, and Mexico, even gains from the transfer of the aforementioned assets are deemed to be royalties.

- ii) Consideration for the use of or the right to use industrial, commercial or academic equipment

- ① Under tax treaties Korea has concluded with the US, Bangladesh, Egypt, South Africa, New Zealand, etc. consideration of this category is not deemed as royalties.

- ② Consideration for the use of or the right to use of ships or aircraft on a bareboat charter is deemed as income from the rental thereof, unless there is a separate provision on it in tax treaty as in the Korea-Netherlands Tax Treaty.

- ③ Under a tax treaty with Mexico, provisions on royalties may also apply to income from the transfer of the equipment of this category.

- iii) Consideration for information concerning industrial, commercial or academic experience

- ① Under tax treaty between Korea and Egypt, consideration in this category is not prescribed as royalty income.

- ② Under tax treaty between Korea and the Netherlands, payments received as consideration for scientific, geological or technological study or survey are not deemed as consideration for information concerning industrial, commercial or scientific experience.

- ③ Under treaty with France, payments received as consideration for



scientific, geological or technological study or survey and for service concerning certain engineering, or consulting or supervision service are not deemed as consideration in this category.

iv) Consideration for technical services

Under tax treaties Korea has concluded with Brazil, India, Pakistan, Bulgaria, Tunisia, etc. consideration for technological, management or consulting services is defined as royalties.

(b) Rules for determining domestic-source

Royalties may be treated as having a source either in a state in which consideration concerned is paid or a state in which properties or information concerned is used. While most tax treaties Korea has concluded stipulate that royalties are deemed to have a source in the payer's state of residence, a state in which properties concerned are used is regarded as a state of source under treaties with the US. However, even under such treaties adopting the place of payment principle, where the obligation to pay such royalties is created in connection with a PE in Korea of a non-resident or a foreign company and the royalties are borne by such PE, the royalties are deemed to have a source in Korea regardless of the state of residence of the payer.

(c) Gains from the transfer of patent, etc.

Royalties include not only income from the rental of properties or rights defined above but also gains from the transfer thereof, under the Korean tax law, while the latter is excluded from the scope of royalties under most of tax treaties Korea has concluded. If gains from such transfer do not fall under the scope of royalties under tax treaties, such gains shall be treated as business income (in the case that such income is derived by a PE), capital gains or other income, as the case may be.

(d) Application of reduced tax rates

Royalties may be taxed in the state of source, but where the recipient of royalties is its beneficial owner, the tax rate shall not exceed a certain level (i.e., reduced tax rate under applicable tax treaty, generally ranging from 5% to 15%). However, under treaties with Hungary, Ireland, Malta, etc. royalties shall be taxable only in the recipient's state of residence.

### **3. Taxation on Income Arising from the Provision of Professional Services**

#### **a. Taxation Rules Provided by Domestic Tax Laws**

##### (1) Domestic-source income from professional services

Under the Korean tax law, domestic-source income derived by non-resident individuals or foreign companies from the provision of personal services means income derived by non-resident individuals or foreign companies from the rendering of professional services by themselves or through their employees. In other words, it is compensation for professional services provided by a person of an independent status or for other activities of an independent nature, as opposed to earned income which means compensation for services provided by a person as employee of other person. Professional personal services include the following:

- (a) Services provided by actors, musicians or other entertainers
- (b) Services provided by professional athletes
- (c) Services provided by professionals such as lawyers, certified public accountants, architects, surveyors registered and patent lawyers
- (d) Services provided by those with expertise in specific area such as science & technology and business management by utilizing such expertise

\* In the case of the rendering of professional services by a non-resident individual or a foreign company without a PE in Korea, airfare, accommodation fees or meal expenses used to be included in total amount from which 20% of withholding tax is deducted at source. However, since January 1, 2005, such fees are no longer counted in for withholding tax purpose as long as they are directly paid to the airline, hotel, or restaurant concerned by the withholding agent concerned. The non-resident who derives income from professional services may also elect to include such income from the provision of professional services subtracted by the afore-mentioned expenses in the global income when filing a tax return in Korea.

#### **b. Taxation Principles Adopted by Korean Tax Treaties**

##### (1) Types of professional services under tax treaty

In general, there are two types of professional personal services: independent personal services of an independent character and dependent personal services provided by a person as employee of other person. In tax treaties, however, income from the provision of personal services is classified into the following 8 categories and each category is dealt with separately:

- (a) Income derived from “independent personal services”
- (b) Income derived from “dependent personal services”
- (c) “Directors’ fees”
- (d) Income derived by “artistes and sportsmen”
- (e) “Pensions”
- (f) Remuneration paid in respect of “services rendered to a government or other institutions of the similar nature”
- (g) Payments received by “students or business apprentice” for the purpose of maintenance, education or training
- (h) Remuneration paid to “professors”

Among the 8 categories, a company may be regarded as a qualified entity for income derived from independent personal services as well as for remunerations paid for the activities of artistes and sportsmen in some cases.

## (2) Income in respect of independent personal services

Basically, income in respect of independent personal services refers to income paid for the rendering of services by a person of an independent status. Therefore, compensation for services provided by a doctor who is employed at a medical center of a factory is income from dependent personal services (labor income) rather than income from independent personal services.

Activities by artistes and sportsmen come under independent personal services as described above, but, in the case where a tax treaty contains a separate article dealing with artistes and sportsmen, that article applies to such activities taking precedence over the article on independent personal services.

Independent personal services have similar nature to that of business profits in many aspects. Therefore, just as business profits derived by a non-resident without a PE in Korea are non-taxable in Korea, if the tax treaty concerned specifies that only those independent services delivered through a fixed base

in Korea may be taxed in Korea, taxation principle applied to a PE with regard to business profits shall apply *mutatis mutandis* to independent services rendered through a fixed base. In other words, independent personal services provided through a fixed base in Korea may be taxed in Korea but only so much of them as is attributable to the fixed base.

(3) Personal services provided by a foreign company under tax treaty

Income derived from the rendering of professional services by a foreign company in Korea under the Korean Corporation Tax Law is generally the same as independent personal services under tax treaty, but may be classified as business profits sometimes depending on treaties.

Given, under a tax treaty, business profits derived by a foreign company without a PE in Korea is not taxable in Korea while income from the provision of independent personal services is taxable in Korea unless certain conditions for exemption are met, tax consequences with regard to income derived by a foreign company in relation to personal services vary dramatically depending on whether the income concerned is classified as business profit or as income from independent personal services.

(a) Tax treaties specifying the income derived by a company from the provision of professional services as business profits

Under some tax treaties Korea has entered into (e.g. tax treaty with the US, Germany, Australia, Sri Lanka, Pakistan, Indonesia, India, Brazil, Russia and South Africa), only individuals are qualified for the articles on independent personal services and thus income derived by a company from a foreign country through the company's employee in Korea constitutes business profits and is not taxable in Korea unless the company has a PE in Korea. However, labor income derived in Korea by an employee of such company, if conditions of tax exemptions as prescribed in the applicable tax treaty are not met, is taxable in Korea as labor income.

(b) Tax treaties recognizing income from the provision of professional services by a company under the category of income from the independent personal service

Under most tax treaties Korea has entered into, the article governing independent personal services is applicable to both individuals and companies. Therefore, income derived by a company from a foreign country

covered by such tax treaty through its employee in Korea is subject to the provisions of the treaty concerned on independent personal services. Therefore, such income is taxable in Korea unless conditions for exemptions specified in the provisions are met, even when the company has no PE in Korea.

#### **4. Taxation on Capital Gains**

##### **a. Taxation Rules Provided by Domestic Tax Laws**

###### (1) Domestic-source capital gains

###### (a) Scope of capital gains from the transfer of immovable property

Capital gains from the transfer of the following immovable property are regarded as having domestic source under the Korean tax laws:

###### i) Land or buildings

Land means land categories required to be registered on the Cadastral Register under the Cadastral Law and buildings include facilities and structures accessory to the buildings concerned.

###### ii) Rights to real estate such as surface rights and leaseholds to real estate registered and rights to acquire real estate (including rights to acquire a building and land accessory thereto when the construction of the building is completed)

###### iii) "Other property" (particular type of shares, membership, goodwill etc.) such as shares that are not listed on the Securities Market under the Capital Market and Financial Investment Business Act (hereinafter "securities market") including shares (hereinafter "real estate stocks, etc.") of a corporation, among stocks and investment shares (hereinafter "stocks, etc." including certificates of deposit and stock purchase warrants issued on the basis of stocks, etc.), whose assets of i) and ii) are 50% or more of its total assets as of the first day of the business year to which the date of transfer belongs. Capital gains derived by a non-resident (including a foreign company) will be treated as having a source in Korea only when the asset in respect of which such gains are incurred is situated within Korea.

###### (b) Scope of capital gains from the transfer of movable property

Domestic-source capital gains on shares include gains from the transfer by a non-resident (including a foreign company) of shares or comparable interests or other securities issued by a domestic corporation and shares or comparable interests issued by a foreign corporation (limited to those that are listed or registered on publicly recognized stock exchanges and other securities issued by a place of business (P.E.) in Korea of a foreign corporation except for gains from the transfer of property described in (a) iii).

The scope of taxable gains from the transfer of securities by a non-resident under the Korean tax law is determined based on such factors as the existence of a PE within Korea, types of securities or transactions, etc. as follows:

In the case of non-residents or foreign corporations with a PE in Korea:

- i) Gains derived by foreign corporations from the transfer of shares or comparable interests are subject to tax. Gains derived by non-residents from the transfer of shares or comparable interests are taxable, except when such shares or interest are transferred through publicly recognized stock exchanges and the holdings of the non-resident transferor together with his specially-related persons as may be aggregated therewith are less than 25% of the total shares issued by or the total investment in a Korean company (the total shares or interests listed or registered on publicly recognized stock exchanges in Korea in the case of shares or interests issued by a foreign company) in the year of such transfer and throughout the 5 years prior to the year.
- ii) Gains from the transfer of the securities other than shares or comparable interests (e.g. bonds, etc.) are subject to tax.

In the case of non-residents or foreign corporations without a PE in Korea:

i) Gains from the transfer of shares or comparable interests

- ① Gains from the sale through publicly recognized stock exchanges (e.g., the KOSDAQ Market) are taxable only in the case where the holdings of the non-resident transferor together with such shares held by specially-related persons as may be aggregated therewith are more than 25% of the total shares issued by or total investment in a Korean company (the total shares or comparable interests listed or registered on a publicly recognized stock exchange in Korea in the

case of shares or comparable interests issued by a foreign company) at any time in the year of such transfer and during the 5 years prior to the year.

② Gains from the sale through places other than publicly recognized stock exchanges are generally taxable. This rule applies even in the case where the company, shares of which are transferred, is listed or registered on publicly recognized stock exchanges.

ii) Gains from the transfer of securities (bonds etc.) other than shares or comparable interests

① Such gains are subject to tax where the transferee is a domestic corporation, a resident or a place of business of a non-resident or a foreign corporation.

② Capital gains are non-taxable where the transferee is a non-resident or a foreign corporation having no place of business in Korea.

(2) Tax-exempt capital gains from securities specified in a tax law

Income tax and corporate tax exemptions are allowed for gains from the transfer in foreign countries by a non-resident or a foreign corporation of securities denominated in foreign currency or receivable abroad which are issued abroad by the state, local authorities or a domestic corporation based on the standards defined by the Minister of Economy and Finance as well as shares and comparable interests of a domestic corporation listed or registered on an overseas stock exchange which is similar to publicly recognized stock exchange (including the KOSDAQ market) under the Capital Market and Financial Investment Business Act. Eligible securities for this regime include ordinary bonds (bonds of every kind such as corporate bond, financial bond, and public bond), convertible bond (CB), bond with warrant (BW), depository receipt (DR) and short/mid-term debt instrument issued based on agreement which guarantees revolving underwriting.

(3) Obligation to file a tax return for capital gains from transfer of securities

If capital gains on shares derived by a non-resident (including a foreign company) having a PE or immovable property in Korea are attributable to the PE or the immovable property, such gains should be aggregated to other domestic-source income for the purpose of filing of a tax return and tax

payment. Also, a non-resident (including a foreign company) must file tax returns within 3 months if he transfers shares or comparable interests of the same domestic corporation twice or more within the same taxable year even though he has no PE in Korea or has a PE in Korea with no connection existing between the PE and the capital gains mentioned above. If he fails to file tax returns, underreports his tax base or pay less than due amount of taxes, he shall be subject to additional penalty charges.

(4) How to tax capital gains from transfer of securities

Capital gains on securities in other cases are subject to separate taxation through final withholding tax. When it comes to separate withholding tax, the lesser of an amount equivalent to 10% of the transfer price of securities (①) or the amount equivalent to 20% of the capital gains (transfer price – (acquisition value + expenses incurred in relation to the transfer) (②) will be withheld. However, if such acquisition value and expenses are unidentifiable, the amount in ① will apply.

Amount of gains from the transfer of securities by a foreign company having no PE in Korea is calculated by class of shares and by transaction, and capital gains and losses from each class or transaction cannot be set off against each other. However, where shares are acquired through the Korea Stock Exchange out of different accounts opened with different securities firms and shares acquired from each account are kept by respective securities firms, set-off of capital gains and losses by account is allowed.

**b. Taxation Principles Adopted by Korean Tax Treaties**

(1) Scope of capital gains on real estate, etc.

Under Korean tax treaties, the taxing right to capital gains may go to different states depending on types of properties transferred.

(a) Capital gains on real estates

In general, it is specified in tax treaty that capital gains on real estate may be taxed in a state in which the property transferred is situated.

(b) Capital gains on properties forming part of a PE

Gains from the transfer of movable properties forming part of business-



purpose properties (including gains from the transfer of a PE) may be taxed in a state in which the PE is situated.

(c) Capital gains on ships or aircraft operated in international traffic

Gains from the transfer of ships or aircraft operated in international traffic and movable properties incidental to such operation shall be taxable only in a state of which the enterprise is a resident.

(d) Capital gains on securities

In many treaties, gains from the sale of shares (including comparable interests) are distinguished from other capital gains, whilst capital gains from the transfer of other securities are not particularly categorized and thus treated in the same manner as the gains from transfer of all other properties. Capital gains on shares are taxable only in the transferor's state of residence under most tax treaties. However, some treaties allow capital gains on shares to be taxable in a state where such gains are derived if certain conditions are met. Where the taxing right to capital gains on shares is assigned to the state of source or no provision for such gains is provided for under relevant tax treaties, they are taxable in the state of source in accordance with its domestic tax laws.

The following shows which state is entitled to tax capital gains on securities under various Korean tax treaties:

| <b>Taxation right</b>  | <b>Treaty partner</b>   |
|--|---|
| Taxable only in the transferor's state of residence  | Greece, South Africa, the Netherlands, Denmark, Russia, Malaysia, etc.                                    |
| Taxable only in the transferor's state of residence (However, gains from the alienation of shares of the capital stock of a company the property of which consists mainly of immovable property situated in a contracting state may be taxed in that state.) | Norway, Nepal, Germany, Mexico, Morocco, Malta, the US, New Zealand, Spain, Austria, Israel, Myanmar etc. |
| Taxable only in the transferor's state of residence. (However, if the transferor has held at least 25% of the total shares of the company during a certain period of time, capital gains concerned may be taxed in the where such gains are derived.)        | Germany, Mexico, Myanmar (35%), Spain, Austria, Israel, Italy, etc.                                       |
| Taxable in a state where capital gains are incurred in the case the transferor, being a resident of the other contracting state, has been a resident of the first-mentioned state at any time during the five years immediately preceding the transfer.      | Norway, the Netherlands, France, UK, Finland, Iceland, Canada   |
| Taxable in both contracting states<br>-No relevant provisions provided for in tax treaty<br>-Taxable in a state in which capital gains are derived under tax treaty  | - Luxemburg, Australia<br><br>- Brazil, Singapore, Hong Kong  |

(e)Capital gains from other properties

In most cases, capital gains from other properties are subject to tax in the residence state of the transferor under relevant tax treaties. However, if applicable tax treaties do not exist or tax treaties do not articulate residence state's taxing rights on this type of gains, such gains may be taxed in the source state.

**5. Taxation on Other Income**

**a. Domestic Tax Provisions for Determining Domestic-Source Other Income**

Domestic-source income falling under the category of other income derived by a non-resident (including a foreign company) under the Korean tax law include income items as specified in the following, provided that such income does not fall under the category of other domestic-source income.

- (1) Insurance proceeds, compensation money or compensation for damages receivable in connection with real estate or other assets located in Korea, or in connection with a business operated in Korea
- (2) Damages or indemnity payments for breach or cancellation of a contract on property rights payable in Korea
- (3) Income incurred from properties received as gifts and held in Korea (However, in the case of non-resident individuals, such income is subject to the gift tax rather than the income tax)
- (4) Prize money, reward, and other similar income payable in Korea
- (5) Income from hidden property discovered in Korea
- (6) Income from the assignment within Korea of rights established by license, permission or other similar disposition under the Korean law, or from the transfer of property held within Korea at the time of transfer, other than real estate
- (7) Money or goods received as a prize from winning a lottery or drawing lot in Korea and proceeds from winning horse racing/ cycle racing/ motorboat racing/ bull fighting, sports betting game tickets issued in Korea (including money and goods from participation by non-resident individuals in activities involving the use of slot machine etc.)
- (8) Income that has been disposed of as miscellaneous income under Article 67 of the Corporation Tax Law
- (9) Income from the unfair increase of values of shares or comparable interests of a domestic corporation owned by a non-resident as a result of non arm's length capital transactions between related parties
- (10) Amount of money received when a pension account is prematurely terminated before maturity or lump sum money received after maturity
- (11) Income other than those described above, arising from a business operated in Korea, or economic benefits received in connection with assets located in Korea or other similar income

## **b. Tax Treaties' Provisions Determining Taxing Rights on Other Income**

Other income or income not expressly mentioned under tax treaty means income not dealt with in any article of the tax treaty concerned, which means that the scope of such income may differ depending on tax treaties. Other income under tax treaty includes not only income items not expressly mentioned in the treaty concerned but also income of sources not expressly referred to therein. In this respect, the definition of other income under tax treaty is different from that under the Korean tax law. In other words, other income under tax treaty encompasses all income which is not expressly mentioned in the treaty concerned, while other income under the domestic tax law means only income specified as such therein.

There may be three cases with regard to taxation on other income under tax treaties as in the following:

- (1) Where such income shall be taxable only in the recipient's state of residence
- (2) Where such income may be taxable both in the recipient's state of residence and the state of source
- (3) Where a tax treaty provides no provision on other income (in this case, the income concerned may be taxable both in the recipient's state of residence and the state of source)

| <b>Type</b>   | <b>Applicable tax treaty</b>  |
|---|---|
| Taxable only in the recipient's state of residence                            | Greece, South Africa, Norway, Nepal, Germany, Russia, Japan, etc.       |
| Taxable both in the recipient's state of residence and in the state of source | New Zealand, Malaysia, Mexico, Bangladesh, Belgium, Brazil, Egypt, etc. |
| No provision on other income provided for in tax treaty                       | The Netherlands, Denmark, Singapore, the US                             |

## **c. How to Tax Other Income**

In case the right or asset in respect of which other income is paid is effectively connected with a PE in one contracting state of a resident of the other Contracting state, such income is treated as business income and taxed accordingly.

Generally, Korean tax treaties do not have a provision for "reduced tax rates" for the Article of "Other Income." It means that an amount equivalent to 20% (the tax rate stipulated in domestic tax laws) of "other income having domestic source (i.e., total amount paid in Korea and classified as other income under domestic tax laws and relevant tax treaties)" of a non-resident or a foreign company having no PE in Korea needs to be withheld at source.

## **6. Procedural Rules for Anti-Treaty Shopping**

### **a. General Procedures for Claiming Tax Exemption Provided in Relevant Tax Treaties**

A non-resident (including a foreign company) who wishes to benefit from non-taxation or exemptions under tax treaty in relation to domestic-source income (excluding business profits and income from the provision of personal services) should claim it by submitting an application form for non-taxation/exemptions to the payer of the income concerned. A certificate of residence issued by the competent authorities of the non-resident's state of residence should be attached to such application form for non-taxation/ exemptions. Then, the payer of the income has to submit such form to the tax office having jurisdictions over his place of tax payment by the ninth day of the month following that in which the payer makes the first payment of income.

Even in the case of changes in details of the application after the initial application for some reasons such as modification of contract terms, the non-resident has to make an application in the same manner as before. However, where the payer of the income does not have a residence, abode, head or main office or place of business in Korea, the non-resident recipient may directly submit such application form to the relevant tax office.

Generally, application mentioned above can be made through an agent of the non-resident. Where a financial institution underwrites, trades bonds of a non-resident or a foreign company, or acts as a brokerage or an agent in relation to such bonds, agency relations are deemed to exist between such financial institution, securities firm, or corporation and the non-resident.

With regard to the domestic-source income concerned which is not subject to the corporate income tax or is tax-exempt under domestic tax laws, an application form for non-taxation/ exemptions does not need to be submitted.

### **b. Special Procedures of Withholding Tax with regard to Passive Income Paid to Residents in Tax Shelters**

Recently, Korea has encountered a number of cases where tax treaties which Korea has concluded with countries having preferential tax regimes or jurisdictions were abused for treaty shopping purposes. Actually, a few of Korea's tax treaty partners offer no or nominal tax burden to foreign investment funds and thus they are suspected to provide treaty shopping opportunities to

investors residing in a third country to which a relevant Korean treaty cannot apply.

Although the number of such regions may not be high, they are believed to deal a severe blow to effective operation of Korea's international tax system as a whole. Recognizing the seriousness of the issue, the Korean government has introduced a procedure for withholding tax to cover countries or areas that are deemed to be tax shelters so that chances of treaty shopping attempts can be significantly reduced.

The gist of the rule is that income from investment in Korea derived by a non-resident or a foreign company located in some specific countries or jurisdictions designated by the Minister of Economy and Finance should be first withheld by a withholding agency according to tax rates provided in domestic tax laws. If the non-resident or the foreign company is able to substantiate to the relevant tax office within 5 years that it qualifies for the treaty benefits as the beneficial owner of the income concerned, any difference between the amount withheld at the domestic tax rate and one based on the applicable treaty should be refunded within 6 months. In the case the taxpayer concerned wishes to apply a reduced rate or tax exemption under tax treaties from the beginning, he or she should request the Commissioner of the National Tax Service (NTS) to give an advance approval according to the procedure provided in the relevant enforcement decrees.

Since it may require huge compliance and administrative costs to determine whether or not the applicant is the beneficial owner of the income received, the enforcement decree of the Corporation Tax Law provides some safe harbor rules by which the recipient of the income may be regarded as the beneficial owner of the income concerned even without further substantiation of relevant facts. The following is a set of examples of entities that can be treated as such if they claim to be one under the decree.

- (1) A qualified governmental entity of the state of the applicable tax treaty
- (2) A company the shares of which are listed on a recognized stock exchange in the state of the applicable tax treaty and regularly traded thereon
- (3) A company, at least 50% of the aggregate vote of the shares of which is owned directly or indirectly by individuals, qualified governmental entities, and a company described in ii) of the state of the applicable tax treaty

- (4) A pension trust or any other similar organization in the case where at least 50% of beneficiaries are resident individuals in the state of the applicable treaty
- (5) A qualified investment company under the rule of a financial authority of the other Contracting State, which has 100 or more investors during the preceding taxable year(during the taxable year concerned in the case of newly-established companies)
- (6) An entity bearing an amount equivalent to at least 50% of the tax benefit amount in Korea resulting from the application of the relevant tax treaties (i.e. tax amount calculated at rate under the domestic tax law minus tax amount calculated at rate under the applicable tax treaty)

This procedure came into effect from July 1, 2006, and only one region is covered by this procedure: Labuan, Malaysia.

\*See Appendix for a summary of income taxation for non-residents.

## **7. Tax Treaties**

As of the end of June 2018, Korea has bilateral tax treaties (Conventions for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital) in force with 93 countries all over the world.

In addition to the primary objective of avoiding international juridical double taxation, tax treaties serve purposes such as promoting exchanges of advanced technology and capital from abroad as well as encouraging business expansion of domestic companies in foreign countries.

## **Chapter XVI: The Law for the Coordination of International Tax Affairs**

### **1. Transfer Pricing Regime**

#### **a. Adjustment of a Transfer Price Based on an Arm's Length Price**

The LCITA (Law for the Coordination of International Tax Affairs) authorizes the tax authorities to adjust the transfer price based on an arm's length price (ALP) and to determine or recalculate a resident's taxable income when the transfer price of a Korean company and its foreign counterpart is either below or above an arm's length price.

##### **(1) Special Relationship**

The LCITA and its Decree recognize "special relationship" under the following circumstances:

##### **(a) Equity Ownership Test**

- i) Where a foreign company directly or indirectly owns 50% or more of the voting shares of a Korean company
- ii) Where a Korean company directly or indirectly owns 50% or more of the voting shares of a foreign company
- iii) If a corporation (or an individual), which directly or indirectly owns 50% or more of the voting shares of a foreign company, directly or indirectly holds 50% or more of the voting shares of a Korean company

##### **(b) Substantial Control Test**

- i) If one transaction party ("Company A") substantially controls the business policy of the other transaction party ("Company B") or vice versa and at the same time they share the same interest; or
- ii) If the same third party substantially controls the business policy of both Company A and Company B and at the same time both transaction parties share the same interest.

##### **(2) Computation of Indirect Ownership**

If company A owns a 50% stake or more in company B, and B owns a certain percentage of shares in a third company C, B's equity ratio in C would constitute the ratio of equity which A indirectly owns in C.



If company A owns less than a 50% stake of company B, and B owns a certain percentage of shares in a third company C, then A is considered to own C to the extent of the ratio computed by multiplying A's equity ratio in B by B's equity ratio in C.

#### **b. Criteria and Procedure for Transfer Price Adjustment**

The LCITA and its Decree define an arm's length price (ALP) as a price that is established or that can be expected to be established in an uncontrolled transaction between independent enterprises without a "special relationship."

The LCITA lists the following methods for determining an ALP: the comparable uncontrolled price (CUP) method, the resale price method, and the cost-plus method. Furthermore, the Decree elaborates upon the profit-split method, the transactional net margin method (TNMM) and the Berry Ratio method as methods for determining an ALP based on profits arising from controlled transactions.

The CUP method evaluates an ALP by comparing the price that an independent uncontrolled person under the same or similar circumstances in terms of trade conditions or volume would set for goods identical to those in question.

The resale price method may be applied where a manufacturer sells its products to a related person and the related person resells the same product to an unrelated third party without any further processing. Under this method, the adjustment in the transfer price between related parties may be computed by subtracting an appropriate mark-up amount from the price that the related reseller charges unrelated third parties for the product.

The cost plus method, in principle, may be applied where a manufacturer sells his or her products to the related party and the related party then adds value to the product by processing it further to sell to unrelated third parties. In such cases, the ALP is calculated as the price of the refined goods, less the actual costs of further processing, together with an appropriate mark-up upon such costs.

The profit split method determines an ALP by taking the sum of profits earned by the related parties and allocating them in proportion to their respective contribution towards generating the profits realized.

The TNMM evaluates an ALP by first seeking an independent third company which is similar to the company at issue in terms of its business operations and the nature of its business, and then by subjecting such a company to functional and comparability analyses. The income earned by the third company is then estimated based upon the following ratios: profits to assets, operating profits to turnovers, and profits to equity. These estimates will then be used to evaluate and if necessary, adjust the income and profit of the related parties.

Finally, with the Berry Ratio method, an ALP in a transaction between a Korean company and its foreign related party is established by using the ratio of gross profit to operating expense (GP/OE) in a comparable (the same or similar) transaction between the Korean company and an unrelated party.

### **c. Selection of Method for Determining ALP**

The Decree states that an ALP should be determined by the most reasonable method applicable to the situation, whether it be the CUP method, the resale price method, the cost plus method, or any other method.

The Decree sets out the following criteria for selecting the most reasonable method.

- (1) The level of comparability between the transactions of related parties and those of independent parties must be high.
- (2) Sufficient data on comparable independent parties must exist.
- (3) The economic assumptions made in comparing the related parties' transactions with those of independent parties must reflect the actual economic situation of the parties.

The degree of comparability can be evaluated on the following factors:

- (1) Functions performed and risks assumed, as reflected in conditions and transactions
- (2) Types as well as characteristics of the goods or services involved; and
- (3) Economic environment of the market and the degree of change in market conditions

If the inter-company price established by a Korean company and its foreign related party differs from an ALP, the Korean company shall pay the corporate income tax based upon the income it would have reported under an ALP.

If there is a transaction between unrelated parties identical or similar to the transactions between the related parties at issue, the CUP method will be selected over any other method.

If an international transaction made between unrelated parties cannot be treated as an arm's-length transaction because of the possibility of price manipulation, such transaction may not be used as a comparable one.

The tax authorities may use an arm's length range determined by two or more uncontrolled transactions to adjust the taxable income of taxpayers. Such tax adjustment must be made based upon reasonable values computed from the transactions examined.

#### **d. Reporting Methods for an ALP Determination**

The method used and the reason for adopting that particular one for an ALP determination must be disclosed to the tax authorities by a taxpayer in a report submitted along with his annual tax return. This is not the case, however, in the following cases.

- (1) If the total aggregate value of international transactions of goods and services of the taxpayer for the taxable year concerned is not more than 5 billion won and 1 billion won, respectively.
- (2) If the aggregate value of a international transactions of goods and services with a certain transactional counterpart is not more than 1 billion won and 200 million won, respectively.

If the inter-company price used by a Korean company and its foreign counterpart differs from the transfer price determined under the proper method for determining an ALP, then the taxpayer must adjust such inter-company price.

#### **e. Advance Pricing Arrangement (APA) System**

If a taxpayer wishes to obtain an APA for transactions with its foreign related parties, then he or she should submit an application for an APA to the National Tax Service (NTS) by the end of the first fiscal year of the APA period concerned (Unilateral APA).

Once the NTS approves the application of a certain method for determining an ALP, both the NTS and the taxpayer are bound by the method agreed upon in the APA. The roll-back of a unilateral APA to the prior 5 years is permitted (Unilateral APAs had previously applied on a progressive basis only).

An applicant for an APA may withdraw his application for an APA or change the particulars of such an application.

Any data submitted with the application for an APA will be used to only determine whether or not to grant an APA. If an application for an APA is refused or withdrawn, such data will be returned to the applicant in order to safeguard the confidentiality right of the taxpayer.

In the case where an APA is obtained, a taxpayer is required to file an annual report which shows the inter-company price which was determined by the method agreed upon under the APA within 12 months from the last day of the month when the taxable period under Article 5 of Income Tax Act and the fiscal year under Article 6 of Corporate Tax Act ends on a yearly basis

A taxpayer who applies for an APA may request that the NTS invoke a Mutual Agreement Procedure (MAP) with the competent authorities of the country in which its related foreign party is a resident under the relevant tax treaty (Bilateral APA). However, the NTS may grant an APA without undergoing a MAP for the taxpayer's convenience.

Having obtained an APA, a taxpayer may file an amended tax return that reflects the change from its prior inter-company price with a related party and the price determined under the APA.

#### **f. Secondary Adjustment**

If the tax authorities adjust the transfer price between a Korean company and its foreign related party based upon an ALP or they increase the taxable income of the Korean company, and if the foreign party has not returned an amount equal to the additional taxable income to the Korean company, the tax authorities will give the foreign related party the 90-day period during which it may return to the Korean company the amount plus interest accrued up to the point of the return. If the foreign related party fails to do so within the period, the amount equivalent to the additional taxable income will be mostly treated as dividends even if the foreign party is a related company of the Korean company other than a shareholder thereof.

#### **g. Corresponding Adjustment**

The LCITA and its Enforcement Decree state that if a foreign government, on the basis of an ALP, increases the taxable income of a foreign company which is an associated enterprise to its Korean counterpart, the Korean government will correspondingly reduce the taxable income of that Korean company if the two governments have agreed upon an ALP applicable to the case through a Mutual

Agreement Procedure (MAP). In such a case, a taxpayer may apply for a downward adjustment in his taxable income by filing a notification of the MAP results with the tax authorities.

#### **h. Adjustment with regard to a Cost Sharing Arrangement (CSA)**

International standards used to verify appropriateness of cost sharing between a resident and its foreign related party have been reflected in domestic tax law.

Under the new provision, in the case where a resident agrees to develop intangible property jointly with its foreign related party and to share costs/expenses incurred in relation to such development with the foreign related party, the tax base of the resident may be adjusted based on ALP (The shared costs based on the ALP are tax deductible).

#### **i. Sanctions imposed for Failure to Comply with the Data Request**

Under the LCITA, the tax authorities are empowered to request from a taxpayer the data required for an adjustment of the inter-company price. If a taxpayer fails to submit the requested data within 60 days without any justification, the tax authorities may grant an extension of 60 days. The taxpayer may appeal within 30 days of the penalty imposition date.

The tax authorities may request the following data from a taxpayer:

- (1) Various relevant contract documents concerning the transfer or purchase of assets
- (2) Organizational chart of a corporation and a table of division of office duties
- (3) Details of business activities of the parties involved in the relevant trades
- (4) Current status of mutual investments with the specially-related parties
- (5) Various relevant contract documents concerning the transfer or purchase of assets
- (6) Price list of products
- (7) Statement of manufacturing costs
- (8) Specification of trades by item, distinguishing between the related parties and the unrelated parties
- (9) Documents corresponding to (4) through (7), in the cases of the offer of services or other trades

- (10) Data for determination of international trade prices
- (11) Internal guidelines for pricing among the related parties
- (12) Accounting standards and methods relating to the relevant trades
- (13) Materials with which it is possible to grasp the details of a transaction in connection with a service transaction under Article 12 of the LCITA, as specified by Ordinance of the Ministry of Economy and Finance.
- (14) Materials specified further by ordinance of the Ministry of Economy and Finance including a cost sharing arrangement in connection with the tax adjustment by the allotted arm's length cost under Article 9 of the LCITA
- (15) Forms or items omitted at the time of returns on the corporate tax and income tax

The aforementioned data shall be prepared and submitted in Korean. Provided, that where the tax authorities permit to do so, the data prepared in English may be submitted.

#### **j. Transfer Pricing Documentation**

As a result of OECD/G20 BEPS Project, thirteen final reports were released in October 2015. Among them, BEPS Project Action 13: Transfer Pricing Documentation and Country-by-Country Reporting requires multinational enterprises to submit transfer pricing documentation and country-by-country report to the tax authority in order to prevent tax avoidance by enhancing transparency in international transactions of multinational enterprises.

Korea amended tax laws in 2015 and legislated obligation to submit transfer pricing documentation of multinational enterprises including a master file and a local file for each tax year from January 1, 2016. An individual corporation is required to submit its master file and local file where annual turnover of the corporation exceeds 100 billion won and the corporation's total amount of transaction with specially related foreign parties aggregated in a year exceeds 50 billion won. All relevant corporations are required to submit a local file. Where two or more corporations submit a master file containing the same contents, the ultimate parent company in the multinational enterprise may submit the master file on behalf of those corporations.

A local file should include a description about relevant corporations and transfer pricing information about major intercompany transactions and related transactions. A master file should include information such as organizational structure, business operations, intangibles, and financial and tax positions of corporations (may be described separately by value chain or subsidiary, if

necessary) which are subject to the same consolidated financial statement as that of relevant corporations.

A master file and a local file should be submitted to the head of a district tax office in the place of tax payment within 12 months from the last day of the month in which any business year in accordance with Article 6 of Corporate Tax Act ends (the submission deadline may be extended to the extent of one year through submitting an application for the extension of a deadline to the head of a district tax office in the place of tax payment if reasons for the extension of a deadline fall under those specified in Article 37 of Enforcement Decree of the Adjustment of International Taxes Act), and the submission in electronic form is available.

Both master file and local file should be written in Korean. A master file, however, may be written in English on condition that the Korean translation shall be submitted within one month.

In addition, a new requirement for multinational enterprises to submit Country-by-Country Report (CbCR) was introduced through 2016 tax code revision. Under the CbCR, the domestic ultimate parent company of multinational companies with annual sales revenue exceeding KRW 1 trillion per consolidated financial statements during the fiscal year immediately preceding the reporting fiscal year is required to submit the CbCR, which includes information on country specific income and taxes, a list of companies by respective jurisdiction, main business activities, etc., both in English and Korean to the Korean tax authority via data communication network system within 12 months after the end of the month to which the end of the ultimate parent company's relevant business year belongs. However, in cases where the ultimate parent company is located in a country not obligated to submit the CbCR or with which the CbCR is not exchanged for such reasons that a tax treaty has not been in force and where the ultimate parent company's annual sales revenue per consolidated financial statements during the fiscal year immediately preceding the reporting fiscal year exceeds the threshold amount prescribed by laws of the country in which the ultimate parent company is located (if a country where the ultimate parent company is located does not have any legal system requiring local filing of the CbCR, EUR 750 million), domestic subsidiaries or branches of the overseas multinational enterprise groups shall file the CbCR and also submit documentation related to CbC reporting entity within 6 months after the end of the business year.

If the reporting entity fails to submit local files, master files and CbCRs notwithstanding its obligation to submit them, up to KRW 30 million for each file shall be imposed as penalty.

## **2. A System Adjusting Taxable Value between National Tax and Customs duty**

From July 1, 2012, where a resident knows a correction of declared customs value, the person may file for a corresponding correction of national taxes.

- a.** The person shall apply for the correction within three months from the date of knowing such correction of the customs value. The taxation authority shall notify its decision regarding the application to the applicant within two month from the date of receiving the application.
- b.** Where the applicant does not satisfy with the decision, the person may submit an application for mediation in relation to the adjustment of tax and/or duty to the Minister of Economy and Finance within thirty days from the date when the person was informed of the decision
- c.** In this case, the Minister of Economy and Finance may recommend the taxation authority and/or the head of customs office to adjust assessed tax and/or duty. The Minister shall receive implementation plans from the taxation authority or the head of customs office, and shall advise the resident of it within ninety days from the date of application.

## **3. Thin Capitalization Rules**

### **a. Outline of Thin Capitalization Rule**

A multinational enterprise (MNE) may adopt a tax avoidance mechanism under which the contribution of paid-in capital to its subsidiary in Korea is decreased, while increasing its loans to the subsidiary as much as possible. This may result in the minimization of the taxable income of the subsidiary through the increase in interest expense deduction of the subsidiary. Under such an arrangement, non-deductible dividend payments are replaced with deductible interest payments.

To cope with such an arrangement, the LCITA and its enforcement decree contain thin capitalization rules; whereby if a Korean company(including a branch of a foreign company) borrows from its controlling shareholders overseas (CSO), an amount greater than two times its equity (six times in the case of financial institutions) interest payable on the excess portion of the borrowing, computed as shown below, are re-characterized as dividends to which the article on dividends in tax treaty applies and therefore are treated as non-deductible in computing taxable income.



For purposes of the thin capitalization rules, money borrowed from a CSO includes amounts borrowed from an unrelated third party and relatives based upon the CSO's guarantee.

The following is the formula for computing non-deductible interest:

Non-deductible interest = Interest and discount payable to CSO X B/A

A: Debt borrowed from the CSO or guaranteed by the CSO

B: A - [Paid-in capital contributed by the CSO X 2 (or 6 in the case of a financial institution)].

**c. Debt under an Arm's Length Situation**

d. a branch of a foreign company)'s borrowings from its foreign related party exceed 30% of the adjusted taxable income, that excess amount shall be excluded from deductible expenses. However, this provision shall not be applicable to Korean companies managing financial and insurance businesses.

(1) Net interest and discount fees: expenses left after subtracting interest and discount fees received from a foreign related party from interest and discount fees paid to such party

(2) Adjusted taxable income: taxable income prior to the subtraction of depreciation, net interest and discount fees

**d. Hybrid financial instruments**

Introduced as part of the revised LCITA in 2017, the provision stipulates that of the interest and discount fees paid by a Korean company to its foreign related party in a transaction involving hybrid financial instruments, such amount as is taxed within a specific period of time in the country in which the company's transaction party is situated shall be included in deductible expense.

Hybrid financial instrument refers to an instrument deemed as debt in Korea according to its tax law – thus, interest and discount fees paid by a Korean company to its transaction party being treated as interest therein-, but as capital in the country in which such company's transaction party is situated, hence interest and discount fees paid by the Korean company to the transaction party being treated as dividend.

## **4. Controlled Foreign Corporation (CFC) Rules**

### **a. Overview of the CFC Rules**

Under the LCITA and its Enforcement Decree, if a Korean company (or individual) invests in a company located in a significantly low tax jurisdiction, which unreasonably has reserved profits in the controlled foreign company, the profits reserved therein shall be treated as dividends paid out to that Korean company (individual), despite the fact that the reserved profits are not actually distributed.

In the case where the sum of shares in a controlled foreign company directly or indirectly held by a Korean resident individual or company and directly held by his/her/its relatives or persons connected with them by an economic relationship among specially-related persons as defined in the Framework Act for National Taxes combined accounts for 10% or more of the voting shares in the foreign company, such Korean resident individual or company is subject to the CFC rules.

The CFC rules are intended to regulate a company that has made overseas investments of an abnormal nature. Thus, these rules apply to those Korean companies that have invested in a company incorporated in a foreign jurisdiction with an average effective tax rate of 15% or less on taxable income for the past three years.

However, if a company incorporated in such a jurisdiction actively engages in business operations through an office, a shop, or a factory, then the CFC rules will not apply. This exemption, however, does not apply to a controlled foreign company (i) which is engaged in certain businesses such as wholesale trade, financial and insurance business, real estate, lease business, etc. or (ii) which derives passive incomes from holding stocks or bonds, providing intellectual property rights, leasing vessels, aircrafts, and heavy equipment, etc, or profits and losses from assets accruing passive income.

### **b. Scope of the Subject Jurisdiction**

If an average effective tax rate imposed for the past three years by a foreign jurisdiction is 15% or less of the actually accrued income of a company incorporated therein, the company will be subject to the CFC rules. Even if this criterion is met, however, these rules do not apply in the case of a company whose actually accrued annual income is 200 million won or less.

The term "actually accrued income" refers to the net income before tax calculated based on the generally accepted accounting principle (GAAP) of the host country.

If the host country's GAAP is significantly different from that of Korea, the actually accrued income will be computed pursuant to the Korean GAAP.

For this purpose, if the company has paid foreign taxes, such foreign taxes will be deemed to have been paid to the resident state.

$$\text{Effective tax rate} = (\text{Tax paid to resident country} + \text{Foreign taxes paid})$$
$$/ \text{Net income before corporate income tax.}$$

### **c. Computation of the Reserved Income to Be Distributed**

The reserved income that can be distributed is computed by subtracting the items (1) through (7) listed below from the adjusted amount of earned-surplus. The earned-surplus is represented on the income statements prepared in accordance with the GAAP of the resident state of the foreign company subject to the CFC rules:

- (1) Distribution of earned-surplus resulting from an appropriation of retained earnings (including interim dividend accrued during the business year concerned)
- (2) Bonuses, severance pay, and other types of outlays paid resulting from the appropriation of retained earnings,
- (3) Reserves to be retained under the law of the resident state
- (4) Reserves remaining after the distribution of the earned-surplus for the year, which was subject to tax in the previous taxable years
- (5) Retained earnings (item (6) excluded) which were derived in the taxable years for which the CFC rules are not applicable and which have not been subtracted as those specified in items (1) and (2)
- (6) Unrealized gain on valuation of stocks or investment shares as of the end of the business year
- (7) 200 million won

If the resident state's GAAP is significantly different from the Korean GAAP, the earned-surplus shall be computed pursuant to the Korean GAAP.

## 5. Gift Tax on Property Located Outside Korea

Under the current Inheritance and Gift Tax Law (IGTL), a gift tax is imposed only if 1) the donee is domiciled in Korea or 2) the donated property is located in Korea. Accordingly, if a Korean individual donates a property located offshore to a donee domiciled offshore, a Korean gift tax cannot be levied. In this case, if the foreign country in which the donee is domiciled does not impose a gift tax, then double non-taxation will occur. Korea, which is now a member of the OECD, intends to adopt the "taxation of donor" principle of the OECD Model Double Taxation Convention on Estates and Inheritances and on Gifts.

Under the LCITA and its enforcement decree, if a person domiciled in Korea donates offshore property to a person who is domiciled in a foreign country where a donee is not subject to a gift tax, the donor will be subject to the Korean gift tax. Provided, that where a donee is a specially-related person of a donor, the Korean gift tax will be levied on the donor even if the donee has paid a gift tax in a foreign country pursuant to the tax law in the foreign country. In this case, the tax amount paid in the foreign country is deducted with a limit\*.

\* The deductible limit is computed by the following formula: calculated gift tax amount × (the tax base of the gift tax paid pursuant to tax laws in the foreign country / the tax base of the total gift tax).

## 6. Mutual Agreement Procedure (MAP)

If a Korean resident individual, a domestic company, a non-resident individual or a foreign company requests that his/her/its case be resolved through consultation with the competent authorities under an applicable tax treaty, the Minister of Economy and Finance (in case of *a* below) or the Commissioner of the National Tax Service (in case of *b* and *c* below) shall invoke the mutual agreement procedures (MAP). The MAP will be invoked in the following cases:

- a. Where it is necessary for Korea to consult with foreign competent authorities with respect to the application and interpretation of the tax treaty
- b. Where a Korean resident is subject to taxation in a foreign country contrary to the tax treaty concerned
- c. Where it becomes necessary for the competent authorities of the two countries to adjust the taxable income of a taxpayer

Once the MAP is invoked, the taxpayer will be allowed to postpone the filing of an appeal until the MAP is completed. Furthermore, if the MAP is invoked under an applicable tax treaty, the collection of national and local taxes will be postponed on a reciprocal basis until the MAP is completed.

## **7. International Tax Cooperation**

Under the LCITA and its enforcement decree, the Korean tax authority may request the tax authority of a treaty partner to collect the Korean taxes, subject to any limitations provided for in the treaty. Similarly, if the treaty partner requests the Korean tax authority to cooperate in collecting its taxes from a Korean resident, the Korean tax authority may collect the treaty partner's tax in accordance with the procedure for the collection of national taxes provided in the National Tax Collection Law.

The Korean tax authority may exchange tax information with foreign countries with which Korea has entered into tax treaties, subject to the provisions and limitations of the tax treaties.

If necessary, the Korean tax authority is permitted to 1) simultaneously conduct a tax audit with foreign tax authorities concerned, under the convention for cooperation in tax administration with that foreign country or 2) dispatch Korean tax officials to the concerned foreign country to conduct a direct tax audit of the company in that country.

As of the end of June 2018, Korea has bilateral tax treaties (Conventions for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital) in force with 93 countries. In addition to the primary objective of avoiding international juridical double taxation, tax treaties serve purposes such as promoting the introduction of advanced technology and capital from abroad as well as encouraging business expansion of domestic companies in foreign countries.

For information on a list of countries with which Korea has tax treaties in force, please refer to Appendix I.

## **8. Foreign Financial Accounts Reporting Requirement**

With the 2017 revision of LCITA, Korean residents and companies are required to report to the NTS their overseas financial accounts whose total valuation exceeds 500 million won on the last day of any month during a calendar year.

The report items include information such as the account holders' name and address, account number, the financial institution, the year-high amount of the account balance on the last day of any month, and any related parties to the account.

The reporting period is from June 1 to June 30 of the year following that in which the relevant account was held. The resident individual or company shall report by filing e-tax or submit report form to the relevant tax office.

The confidentiality of the filed report shall be strictly maintained. Tax officers are prohibited to provide or reveal the obtained foreign financial account information to any other person or to use the information for undue purposes.

If a person subject to the requirement fails to report or report an amount less than required by law, administrative penalty of not more than 20% of the unreported or underreported amount shall apply to him. In the case where the unreported or underreported amount exceeds 5 billion won, the person may be sentenced to up to two years in prison or fined between 13% and 20% of the unreported or underreported amount.

*Part 7: Local Taxes*

**Chapter XVIII: Local Taxes**

**1. Acquisition Tax**

**a. Taxpayer**

Persons acquiring real estate, motor vehicles, heavy equipment, trees, boats, aircraft, golf memberships, condominium memberships, health club memberships, mining rights, fishery rights through purchase or inheritance

**b. Tax Base**

- (1) The declared price at the time of acquisition; if buildings are acquired in annual installments, the amount of an annual installment
- (2) Acquisition period
  - (a) Acquisition of buildings: when the notice of approval for use is given in the case construction of the building is permitted or when the building is first used in the case construction of the building is not permitted
  - (b) In the case of property acquired in annual installments: Each payment date of the annual installments
  - (c) For vessels, boats, motor vehicles, heavy equipments and aircrafts: When they are delivered to the end-user or when the balance is paid.

**c. Tax Rates**

(1) Standard rate

(a) Acquisition of real estate

|            |                                | Tax Base Rate |
|------------|--------------------------------|---------------|
| i) Housing | 600 million or less            | 1%            |
|            | 600 – 900 million              | 2%-3%         |
|            | Over 900 million               | 3%            |
|            | 4 or more houses per household | 4%            |

|   |       |            |
|---|-------|------------|
| ii) Other acquisition                         | value | 2.3% – 4%  |
| (b) Acquisition of other properties           |       |            |
| i) Boats                                      | value | 2% – 3%    |
| ii) Motor vehicles                            | value | 2% – 7%    |
| iii) Heavy equipment                          | value | 2% – 3%    |
| iv) Aircrafts                                 | value | 2% – 2.02% |
| v) Others                                     | value | 2%         |
| (trees, golf membership, mining rights, etc.) |       |            |

- (2) In the case of acquiring a villa, golf course, high class dwelling house, luxury amusement place, or a luxury boat: 12%
- (3) In the case where taxable articles for business purposes are acquired in specially-designated areas of restricted population growth; for example, the Seoul metropolitan area (except when foreign investors build new plants or expand existing ones by using assets acquired by the end of 2003): 8%

#### **d. Payment**

- (1) The tax return should be voluntarily filed with the payment of tax due within 60 days from the date of acquisition.
- (2) Penalty tax: If a taxpayer fails to voluntarily file the tax return within 60 days from the date of acquisition, 20% of the tax amount payable is added as penalty tax. In the case a taxpayer fails to pay the tax amount payable, the amount of penalty tax calculated by multiplying the number of delayed days by the penalty tax rate as determined by the Presidential Decree (25/100,000 per day) is added.
- (3) Where a taxpayer, who had acquired objects subject to acquisition tax but has failed to file a tax return and pay the tax due, disposes of those objects, 80% of the tax amount payable is added thereto.

#### **e. Exemptions**

Acquisition by the state, local autonomous bodies, or foreign governments is non-taxable.



## 2. Registration and License Tax

### a. Registration Tax

#### (1) Taxpayer

Persons who register particulars concerning acquisition, creation, transfer, alteration, or lapse of property rights, or other titles in the official book are liable to registration tax.

#### (2) Tax Base

The tax base for the registration tax on real estate, ships, aircraft, or motor vehicles is the value at the time of registration. The said tax base depends on the declaration of the person who registers or records in accordance with the pertinent regulations. However, in the case where the tax base is not reported, or the case where value at the time of acquisition is less than the “Standard Value” determined by the local government every year, the “Standard Value” at the time of the registration or the record is deemed to be the tax base. However, the actual acquisition value shall be the tax base in the following cases:

- (a) Acquisition from the state, local autonomous bodies, and local autonomous body associations
  - (b) Acquisition by importing from abroad
  - (c) Value of acquisitions verified by books of corporations, judicial decisions, or a notarized deed
  - (d) Acquisition through a public sale
- #### (3) Tax Rates

##### (a) Registration of real estate

|   | Tax Base | Rate |
|---|----------|------|
| i) Acquisition of proprietary rights by inheritance of farmland | value    | 0.8% |
| Others  | value    | 0.8% |

|  |       |                     |
|--|-------|---------------------|
| ii) Acquisition of proprietary rights without compensation other than those described in (a) | value | 1.5%                |
| iii) Acquisition of proprietary rights other than those described in (a) and (b)             |       |                     |
| Farmland   | value | 1%                  |
| Others   | value | 2%                  |
| iv) Preservation of proprietary rights   | value | 0.8%                |
| v) Acquisition of rights by partition of real estate   | value | 0.2%                |
| vi) Creation or transfer of the lease of real estate rights other than proprietary rights    | value | 0.2%                |
| vii) Other registration  |       | per case 6,000 won  |
| (b) Registration of Ships, Aircraft, and Vehicles  |       |                     |
| i) Ships   |       |                     |
| ① Registration of ownership of ships   | value | 0.02%               |
| ② Registration of mortgage creation, registration of mortgage transfer                       | value | 0.2%                |
| ③ Other registration   |       | per case 15,000 won |
| ii) Aircraft   |       |                     |
| ① Aircraft with maximum take-off weight greater than 5,700 kg                                | value | 0.01%               |
| ② Other registration   | value | 0.02%               |

|   |                       |  |
|---|-----------------------|--|
| iii) Automobiles for non-business use                           |                       |  |
| ① New registration and ownership transfer                       | value                 | 5%<br>(2% in the case of vehicle below 1,000 cc) |
| ② Creation of mortgage  | value                 | 0.2%   |
| ③ Other registration  | per case 15,000 won   |  |
| iv) Buses, trucks, special cars, and cars with 3 wheels or less |                       |  |
| ① New registration and ownership transfer                       |                       |  |
| -Non business use   | value                 | 3%<br>(2% for light vehicle)                     |
| -Business use   | value                 | 2%   |
| ② Creation of a mortgage  | value                 | 0.2%   |
| ③ Other registration  | per case 15,000 won   |  |
| (c) Registration of machines for construction                   |                       |  |
| i) New registration and ownership transfer                      | value of machine      | 1%   |
| ii) Creation of mortgage  | value of bonds        | 0.2%   |
| iii) Other registration   | per case 10,000 won   |  |
| (d) Registration of incorporation                               |                       |  |
| i) Establishment of a profit corporation                        | value of total shares | 0.4%   |
| ii) Establishment of a non-profit corporation                   | value of total shares | 0.2%   |
| iii) Increase of capital equity or amount of                    | value of total shares | 0.1%   |

paid-in capital for a profit corporation or increase of value of total assets for a non-profit corporation, by capitalizing its assets revaluation reserves

\* In the case of (a), (b), and (c), if the calculated tax amount is less than 112,500 won, then the tax payable shall be 112,500 won.

- |  |          |            |
|--|----------|------------|
| iv) Relocation of head or main office of corporation | per case | 75,000won  |
| v) Establishment of branch office                    | per case | 40,200 won |
| vi) Other registration                               | per case | 40,200 won |

\* Registration tax rates for corporations located in specially-designated areas for the purpose of restricting population growth, e.g., the Seoul metropolitan area, shall be three times the rates given above.

(e) Registration of Intangible Assets

- |                               |          |                                |
|-------------------------------|----------|--------------------------------|
| i) Mining rights              |          |                                |
| ① Creation                    | per case | 135,000 won                    |
| ② Change                      | per case | 66,500 won<br>or<br>15,000 won |
| ③ Transfer                    | per case | 90,000 won<br>or<br>26,200 won |
| ④ Others                      | per case | 12,000 won                     |
| ii) Fishing rights (Transfer) | per case | 40,200 won<br>or<br>6,000 won  |
| iii) Copyrights (Transfer)    | per case | 40,200 won<br>or<br>6,000won   |
| iv) Patent rights (Transfer)  | per case | 18,000 won<br>or               |

12,000 won

v) Trademarks

|            |          |                                |
|------------|----------|--------------------------------|
| ① Creation | per case | 7,600 won                      |
| ② Transfer | per case | 18,000 won<br>or<br>12,000 won |

(f) Other registration

|  |       |       |
|--|-------|-------|
| i) Acquisition of a mortgage of a mining amount of foundation or factory foundation credit | value | 0.1 % |
| ii) Registration of an estate in trust   | value | 1.0 % |

(4) Payment

(a) The taxpayer that will register should file a tax return with the payment of tax due by the date of registration. Where the object of taxation is subject to be taxed after registration, the tax return should be filed with the payment of tax due within 30 days from the date of being subject to double taxation.

(b) Penalty tax

Where the taxpayer either fails to voluntarily file the tax return and pay the tax amount or has paid it in short, 20% of the tax amount payable is added.

In addition, in the case of failure to fulfill tax liability by its due date or underpayment, penalty calculated by following formula shall be imposed:

$$\text{The unpaid amount} \times \text{the number of delayed days} \times 3/10,000$$

(5) Exemptions

(a) Non-taxable Registration

- i) Registration by the government or local autonomous bodies
- ii) Registration by a foreign government mission stationed in Korea

(b) Special provisions for relocation of corporation into a provincial area

To avoid the crowding of corporations in the major cities the registration tax is exempted with respect to the relocation of corporations into a provincial area. On the other hand, the tax rate increases by three times the current rate on the registration of a corporation in the case of its establishment or relocation into a major city.

(c) 50% exempted for registering a 5G wireless base station

**b. License Tax**

(1) Taxpayer

Persons who have obtained licenses as indicated in the annexed Table under Article 39 of the Enforcement Decree of the Local Tax Act are annually liable to the License Tax for each kind of license.

(2) Tax Base

(a) The number of licenses obtained

(b) Taxation period: on occasional basis or period prescribed by the regulations

(3) Tax Rates

| License class | City with population of 500,000 or more | Other cities | Counties   |
|---------------|---|--------------|------------|
| 1             | 67,500 won                              | 45,000 won   | 27,000 won |
| 2             | 54,000 won                              | 34,000 won   | 18,000 won |
| 3             | 40,500 won                              | 22,500 won   | 12,000 won |
| 4             | 27,000 won                              | 15,000 won   | 9,000 won  |
| 5             | 18,000 won                              | 7,500 won    | 4,500 won  |

(4) Payment

License tax will be paid at the following times:

(a) New license: upon issuance of the license

(b)Renewal of license: within the payment period prescribed by the pertinent regulations

(5) Exemptions

(a) Licenses obtained by the state, provinces, cities, counties, or the associations of autonomous, local bodies

(b) Licenses granted to religious, academic, charitable, or other similar businesses

(c) New licenses with respect to the registration of mining or fishing rights, etc.

**3. Leisure Tax**

**a. Taxpayer**

(1) Korea Horse Affair Association which manages and sells tickets to horse races

(2) National Sports Promotion Corporation or local autonomous bodies which organize cycling races and boat races

(3) Bull fighting organizers defined in the Traditional Bull Fighting Match Law

**b. Tax Base**

A total amount of selling horse race, bicycle race, motor boat race, traditional bull fighting tickets

**c. Tax Rates**

10% of the amount obtained by selling horse-race, bicycle race, motor boat race, traditional bull fighting tickets

**d. Payment**

Leisure tax shall be paid by the 10th day of the month following the month in which the issuance date of horse-race tickets falls upon.

**e. Penalty Tax**

If a taxpayer fails to voluntarily file the tax return in time, 10% of the unreported tax amount shall be added as penalty on incorrect filing.

In addition, in the case of failure to fulfill tax liability by its due date or underpayment, penalty calculated by the following formula shall be imposed:

The unpaid amount × the number of delayed days × 3/10,000

#### **4. Inhabitant Tax**

##### **a. Taxpayer**

- (1) Per capita: Individuals with their domiciles and corporations with their offices in a city or county (including individuals having an office or a place of business larger than a specific size, i.e., whose gross receipts are 48 million won or more in the immediately preceding calendar year)
- (2) On property: Business proprietors who have registered their business place as of July 1 of each year
- (3) On employees: An employer who pays salaries or wages to employees

##### **b. Tax Base**

- (1) Per capita: Number of inhabitants
- (2) On property: Workshop area as of the base date of assessment
- (3) On employees: Monthly payroll of employees

##### **c. Tax Rates**

- (1) Per capita
  - (a) Individuals: Local governments determine the taxable amount up to 10,000 won
  - (b) Corporations:



| Category   | Tax amount  |
|--|-------------|
| Corporations with capital over 10 billion won and employs more than 100 workers  | 500,000 won |
| Corporations with capital over 5 billion won and employs more than 100 workers   | 350,000 won |
| Corporations with capital over 5 billion won and employs less than 100 workers, or corporations with capital over 3 billion but less than 5 billion won, employing more than 100 workers | 200,000 won |
| Corporations with capital over 3 billion won and employs less than 100 workers, or corporations with capital over 1 billion and less than 3 billion won with more than 100 employees     | 100,000 won |
| Others   | 50,000 won  |

- (2) On property: 250 won per square meter
- (3) On employees: 0.5% of the payroll

**d. Tax Returns and Payment**

- (1) Per capita

There is no obligation to file a tax return. The authorities holding the rights to impose tax shall serve notice and collect the tax during the period prescribed by the pertinent regulations. Tax is assessed and collected from August 16 to 31 every year.

- (2) On property: Taxpayers of inhabitant tax on property are required to pay the tax amount during the period July 1 through July 31 based on self-compliance. Inhabitant Tax is not assessed where the workshop area is less than 330 square meters.
- (3) On employees: Taxpayers of local income tax on employees are required to pay the tax amount by the 10th of the following month based on self-compliance. When the average monthly gross wages over the past one year are 150 million or less, inhabitant tax per employee is exempt.

#### **e. Exemptions**

- (1) State, local autonomous bodies, and an association of local autonomous bodies are exempt from the inhabitant tax.
- (2) Foreign government agencies in Korea, international organizations in Korea, and foreign nongovernmental aid organizations in Korea under the Foreign Nongovernmental Aid Organizations Act are exempt from the inhabitant tax. However, the inhabitant tax is imposed on a state, which imposes tax of an identical nature with the inhabitant tax on Korean government agencies and international organizations or on Korean nationals working in Korean government agencies and international organizations, on the nationals of that state, and on the property of a government or aid organizations of that state.
- (3) An equal portion of the inhabitant tax is not imposed upon beneficiaries under the National Basic Living Security Act.
- (4) A per capita portion of the inhabitant tax under Article 78(1)1(a) of Local Income Tax Act is not imposed upon aliens for whom as of the tax assessment date one year has not elapsed after he/she filed for alien registration with the head of the Regional Immigration Service having jurisdiction over his/her place of stay as per Article 31 of Immigration Act

### **5. Property Tax**

#### **a. Taxpayer**

- (1) Land: Owners registered in the acreage taxation book under the Acreage Law and other land used effectively
- (2) Buildings: Owners subject to subparagraph 2 of paragraph 1 of Article 2 under the Construction Law and owners of facilities installed on the land or owners of leisure, storage and pipe facilities, etc. and other similar facilities attached to other structures
- (3) Houses: Owners subject to subparagraph 1 of Article 2 under the Housing Act. These houses are excluded from the scope of land and buildings
- (4) Vessels: Owners registered in the ship taxation book as of the base date of assessment
- (5) Aircraft: Owners registered in the aircraft taxation book as of the base date of assessment

**b. Tax Base**

- (1) The Current Standard Value for ships and aircraft
- (2) Land & Houses: The Current Standard Value x (60% for houses; 70% for land)
- (3) Buildings: The Current Standard Value x 70%

**c. Tax Rates**

- (1) Land

(a) General Combined Tax Rates

(Unit: 1000 won)

| Tax base |               | Tax rate     |     |                                      |
|----------|---------------|--------------|-----|--------------------------------------|
| Over     | Not more than | Tax amount + | %   | Of an amount in excess of<br>....won |
|          | 50,000        |              | 0.2 |                                      |
| 50,000   | 100,000       | 100          | 0.3 | 50,000                               |
| 100,000  |               | 250          | 0.5 | 100,000                              |

(b) Special Combined Tax Rates

(Unit: 1000 won)

| Tax base  |               | Tax rate     |     |                 |
|-----------|---------------|--------------|-----|-----------------|
| Over      | Not more than | Tax amount + | %   | The excess over |
|           | 200,000       |              | 0.2 |                 |
| 200,000   | 1,000,000     | 400          | 0.3 | 200,000         |
| 1,000,000 |               | 2,800        | 0.4 | 1,000,000       |

(c) Separate Tax Rates

| Tax base  | Tax rate (%) |
|---|--------------|
| i) Dry field, rice paddies, orchard forests, pasture lots | 0.07         |
| ii) Land for golf courses and luxury amusement            | 4            |
| iii) Land other than i) and ii)                           | 0.2          |

(2) Buildings

| Tax base   | Tax rates (%) |
|--|---------------|
| (a) Building for golf courses and luxury amusement | 4             |
| (b) Building for factory in a residential area     | 0.5           |
| (c) Building other than (a) and (b)                | 0.25          |

(3) Houses

| Tax base  | Tax rate (%) |
|-----------|--------------|
| (a) Villa | 4            |

(b) House other than a)

(Unit: 1000 won)

| Tax base |               | Tax rate     |      |   |
|----------|---------------|--------------|------|---|
| Over     | Not more than | Tax amount + | %    | Of an amount<br>In excess of<br>....won |
|          | 60,000        |              | 0.1  |   |
| 60,000   | 150,000       | 60           | 0.15 | 60,000                                  |
| 150,000  | 300,000       | 195          | 0.25 | 195,000                                 |
| 300,000  |               | 570          | 0.4  | 570,000                                 |

(4) Vessels

(a) High class vessels 5%

(b) Other vessels 0.3%

(5) Aircraft 0.3%

(6) In the case of newly built factories in regions with the population cap defined in the Metropolitan Area Readjustment Planning Law, a tax rate equivalent to 500 percent of the foregoing tax rate is applicable as the rate of property tax for five years from the initial base date of assessment.

(7) Where it is deemed that tax rates need to be adjusted due to unavoidable reasons such as natural disaster or abrupt increase in fiscal demand, a mayor or a governor, as the case may be, may adjust the rates by up to 50% of the standard rates as specified in (1)~(5) above in accordance with pertinent ordinances. The rates adjusted, however, shall apply only for the tax year concerned on a one-off basis.

#### **d. Payment**

- (1) Base date of assessment: June 1
- (2) Payment period
  - a) Land: 9.16~9.30
  - b) Buildings: 7.16~7.31
  - c) Houses: 7.16~7.31(50% of tax assessment)  
9.16~9.30 (The remaining)
  - d) Vessels: 7.16~7.31
  - e) Aircraft: 7.16~7.31

#### **e. Exemptions**

Non-taxable properties

- (1) Properties of the state, local autonomous bodies, or foreign governments
- (2) Properties used directly by non-profit organizations to furnish religious or educational services, etc.

### **6. Automobile Tax**

#### **a. Taxpayer**

Persons who own automobiles

#### **b. Taxation Period**

Annual tax amount will be split into two taxation periods and tax will be assessed and imposed on the owner of an automobile as of the first day to which the taxation period belongs.

1st period: June 16 - 30

2nd period: December 16 – 31

\* If one pays annual tax amounts on a single sum, 10% tax credit will be given on automobile tax for the rest of the period.

**c. Tax Base and Tax Rates**

(1) Automobiles

| <b>Annual tax amount per vehicle (discharge X tax amount per cc)</b> |                   |                  |                   |
|--|-------------------|------------------|-------------------|
| Business use   |                   | Non-business use |                   |
| Engine displacement  | Tax amount per cc | Discharge        | Tax amount per cc |
| 1,000 cc or less   | 18 won            | 1,000cc or less  | 80 won            |
| 1,600 cc or less   | 18 won            | 1,600 cc or less | 140 won           |
| 2,000 cc or less   | 19 won            | Over 1,600 cc    | 200won            |
| 2,500 cc or less   | 19 won            |                  |                   |
| more than 2,500 cc   | 24 won            |                  |                   |

(2) Other Automobiles

| Category    | Annual tax amount per vehicle |                  |
|-------------|-------------------------------|------------------|
|             | Business use                  | Non-business use |
| Per vehicle | 20,000 won                    | 100,000 won      |

(3) Buses

| Category                   | Annual tax amount per vehicle |                        |
|----------------------------|-------------------------------|------------------------|
|                            | Business use (won)            | Non-business use (won) |
| Express buses              | 100,000                       | -                      |
| Large-size chartered buses | 70,000                        | -                      |
| Small-size chartered buses | 50,000                        | -                      |
| Other large-size buses     | 42,000                        | 115,000                |
| Other buses                | 25,000                        | 65,000                 |

(4) Trucks

| Cargo loading capacity | Annual tax amount per vehicle |                        |
|------------------------|-------------------------------|------------------------|
|                        | Business use (won)            | Non-business use (won) |
| 1,000 kg or less       | 6,600                         | 28,500                 |
| 2,000 kg or less       | 9,600                         | 34,500                 |
| 3,000 kg or less       | 13,500                        | 48,000                 |
| 4,000 kg or less       | 18,000                        | 63,000                 |
| 5,000 kg or less       | 22,500                        | 79,500                 |
| 8,000 kg or less       | 36,000                        | 130,500                |
| 10,000 kg or less      | 45,000                        | 157,500                |

(5) Special Cars

| Category                | Annual tax amount per vehicle |                        |
|-------------------------|-------------------------------|------------------------|
|                         | Business use (won)            | Non-business use (won) |
| Large-sized special car | 36,000                        | 157,500                |
| Small-sized special car | 13,500                        | 58,500                 |

(6) Cars with 3 wheels or less

| Category    | Annual tax amount per vehicle |                        |
|-------------|-------------------------------|------------------------|
|             | Business use (won)            | Non-business use (won) |
| Per vehicle | 3,300                         | 18,000                 |

(6) Luxurious cars with 2 wheels

| Displacement   | Annual tax amount per vehicle |                        |
|----------------|-------------------------------|------------------------|
|                | Business use (won)            | Non-business use (won) |
| 125cc to 260cc | 3,300                         | 18,000                 |
| 260 to 1000cc  | 3,300                         | 36,000                 |
| Over 1000cc    | 3,300                         | 54,000                 |

#### d. Payment

Automobile owners pay automobile tax according to the following payment period:

|                              | Object period        | Payment period            |
|------------------------------|----------------------|---------------------------|
| <b>1<sup>st</sup> Period</b> | January 1 ~ June 30  | June 16 ~ June 30         |
| <b>2<sup>nd</sup> Period</b> | July 1 ~ December 31 | December 16 ~ December 31 |

#### e. Exemptions

- (1) Vehicles furnished for national defense, convoys, traffic police, fire service, ambulances, garbage collection, and road projects.
- (2) Automobiles used for postal, telephone, and telegraph services, or by diplomatic missions.
- (3) In the case of an original acquisition of an automobile, or in the case of automobiles retired from service, calculated tax amount less than 2,000 won which is computed according to the number of holding days of those automobiles.

### 7. Tobacco Consumption Tax

The tobacco consumption tax was established as a local tax (city and county tax) on January 1, 1989.

#### a. Taxpayer

- (1) A person who sells manufactured tobacco within a city or county under the provisions of the Tobacco Business Law



(2) Importer of tobacco

(3) A person who enter the country with tobacco

**b. Tax Base**

Volume of tobacco

**c. Tax Rates**

| Item                  |   | Tax rate                |
|-----------------------|---|-------------------------|
|                       | Cigarettes                                  | 1,007 won per 20 pieces |
|                       | Pipe tobacco                                | 36 won per 1g           |
|                       | Cigars                                      | 103 won per 1g          |
|                       | Cut tobacco                                 | 36 won per 1g           |
| Electronic Cigarettes | E-cigarette using liquid nicotine           | 1256 won per 1ml        |
|                       | Heat-not-burn tobacco                       | 897 won per 20 pieces   |
|                       | Others                                      | 88 won per 1g           |
|                       | Water pipe (Hookah, Shisha, Narghile, etc.) | 715 won per 1g          |
|                       | Chewing tobacco                             | 364 won per 1g          |
|                       | Snuffing tobacco                            | 26 won per 1g           |

**d. Payment**

The taxpayer is required to file a return and pay the tax to the Mayor or county Commissioner by the 20th of the following month.

**e. Exemptions**

Tobacco manufactured for export, those sold in duty free shops, aboard international flights, and so on.

## 8. Community Resource and Facility Tax

### a. Community Facility

#### (1) Taxpayer

Persons that benefit from fire-fighting facilities, garbage disposal systems, sewage facilities, or other similar facilities

#### (2) Tax Base

Value of the house or vessels

#### (3) Tax Rates

(Progressively rated)

| Tax base                     | Tax rate   |
|------------------------------|--|
| Not more than 6 million won  | 0.04%  |
| Not more than 13 million won | 2,400 won + 0.05% of the excess over 6 million won   |
| Not more than 26 million won | 5,900 won + 0.06% of the excess over 13 million won  |
| Not more than 39 million won | 13,700 won + 0.08% of the excess over 26 million won |
| Not more than 64 million won | 24,100 won + 0.10% of the excess over 39 million won |
| Over 64 million won          | 49,100 won + 0.12% of the excess over 64 million won |

- (a) In the case of community resource and facility tax appropriated for fire-fighting facilities: the standard rate
- (b) In the case of buildings vulnerable to fire, such as oil reservoirs, gasoline stations, oil refineries, amusement centers, theaters, and buildings with at least four stories, but not more than ten stories: 200% of the standard rate
- (c) In the case of large buildings vulnerable to fire, such as large-scale marts, multiplex theaters [excluding theaters under (b)], department stores, hotels, buildings with at least 11 stories: 300% of the standard rate
- (d) In the case of community resource and facility tax appropriated for garbage

disposal facilities, irrigation facilities, or other public facilities: 0.023% of the value of the land or building

(4) Payment

As prescribed by pertinent regulations

**b. Community Resources**

(1) Tax Base and Tax Rates

(a) Water for generating electricity: 2 won per 10 m<sup>3</sup>

(b) Subterranean water:

i) Drinking water: 200 won per 1 m<sup>3</sup>

ii) Hot spring water: 100 won per 1 m<sup>3</sup>

iii) Others: 20 won per 1 m<sup>3</sup>

(c) Underground resources: 0.5% of the resource value

(d) Containers: 15,000 won per 1 TEU

(e) Nuclear power generation: 1 won per 1kwh

(f) Thermal power generation: 0.3 won per 1kwh

(2) Payment

(a) Place of tax payment

i) Water for generating electricity: province having jurisdiction over the area where the power plant is located

ii) Subterranean water: province having jurisdiction over the area where the hole drilled for pumping up water is located

iii) Underground resources: province having jurisdiction over the area where the land for which the mining right has been registered is located

iv) Containers: province having jurisdiction over the quay handling the container

- v) Nuclear power generation: province having jurisdiction over the location of the power plant
- (b) Tax rate may be changeable in the range of 50% of the standard tax rate based on the provincial ordinances.

## 9. Local Education Tax

### a. Taxpayer

Taxpayers of registration tax, leisure tax, per capita inhabitant tax, property tax, tobacco consumption tax, and automobile tax

### b. Tax Base and Tax Rates

| <b>Taxpayer</b>                       | <b>Tax base</b>  | <b>Standard tax rate</b>                              |
|---------------------------------------|--|---|
| Taxpayer of per capita Inhabitant Tax | Inhabitant tax amount payable pursuant to the Local Tax Law          | 10% (25% in cities with population exceeding 500,000) |
| Taxpayer of Acquisition Tax           | Acquisition tax amount payable pursuant to the Local Tax Law         | 20%   |
| Taxpayer of Leisure Tax               | Leisure tax amount payable pursuant to the Local Tax Law             | 40% (60% until the end of 2008)                       |
| Taxpayer of Property Tax              | Property tax amount payable pursuant to the Local Tax Law            | 20%   |
| Taxpayer of Automobile Tax            | Automobile tax amount payable pursuant to the Local Tax Law          | 30%   |
| Taxpayer of Tobacco Consumption Tax   | Tobacco consumption tax amount payable pursuant to the Local Tax Law | 50%   |

**c. Payment**

(1) Taxpayers that are making Registration Tax, Leisure Tax, or Tobacco Consumption Tax payments are required to pay the Local Education Tax concurrently.

(2) In the cases where Inhabitant Tax, Property Tax and Automobile Tax are collected, the corresponding Local Education Tax shall also be levied.

**d. Penalty Tax**

(1) In the case of failure to file the tax return in time, 10% of the unreported tax amount shall be added as penalty on incorrect filing.

(2) In the case of failure to pay tax liability by its due date or underpayment, penalty calculated by following formula shall be imposed:

$$\text{The unpaid amount} \times \text{the number of delayed days} \times 3/10,000$$

**10. Local Income Tax**

**a. Taxpayer**

Individuals and corporations liable to the income tax or the corporation tax

**b. Tax Base**

The tax base of the income tax or the corporation tax

**c. Tax Rates**

(1) Local income tax imposed in respect of the income tax

| Category      | Tax base                     | Tax rate  |
|---------------|------------------------------|---|
| Global Income | Not more than 12 million won | 0.6% of the tax base                                      |
|               | 12 – 46 million won          | 72,000 won + 1.5% of the excess over 12 million won       |
|               | 46 – 88 million won          | 582,000 won + 2.4% of the excess over 46 million won      |
|               | 88 – 150 million won         | 1.59 million won + 3.5% of the excess over 88 million won |

|  |                       |   |
|--|-----------------------|---|
|  | 150 – 300 million won | 3.76 million won + 3.8% of the excess over 150 million won  |
|  | 300 – 500 million won | 9.46 million won + 4.0% of the excess over 300 million won  |
|  | Over 500 million won  | 17.46 million won + 4.2% of the excess over 500 million won |

(2) Local income tax imposed in respect of the corporation tax

| <b>Tax base</b>                  | <b>Tax rate</b>  |
|----------------------------------|--|
| Not more than 200 million won    | 1 % of the tax base  |
| 200 million won - 20 billion won | 2 million won + 2 % of the excess over 200 million won       |
| 20 billion won - 300 billion won | 398 million won + 2.2 % of the excess over 20 billion won    |
| Over 300 billion won             | 6.558 billion won + 2.5 % of the excess over 300 billion won |

(3) Special collection

| <b>Tax base</b>   |
|---|
| The withheld amount of income tax or corporate tax × 10 % |

The withholding agent of the income tax or the corporation tax is also required to withhold as local income tax an amount equivalent to 10% of the income tax or the corporate tax withheld.

**d. Tax Returns and Payment**

(1) Individuals:

| <b>Category</b>                                | <b>Due date of filing return</b>   |
|--|--|
| Preliminary tax return on capital gains income | Addition of 2 months to the due date of filing a preliminary tax return on capital gains income in accordance with the Income Tax Act. |
| Final tax return on capital gains income       | Additional 2 months to the due date of filing a final tax return on capital gains income in accordance with the Income Tax Act.        |
| Amended tax return                             | Upon filing of an amended tax return on income tax under the income tax law  |

(2) Corporations:

| <b>Category</b>                                | <b>Due date of filing return</b>   |
|--|--|
| Final tax return for domestic corporations     | Within 4 months from the end of the month in which the business year ends              |
| Final tax return for consolidated corporations | Within 5 months from the end of the month in which the consolidated business year ends |

|                    |   |
|--------------------|---|
| Amended tax return | Upon filing of an amended tax return on corporate tax under the corporate tax law |
|--------------------|---|

(3) Special collection

A person responsible for special collection (the person responsible for withholding the income tax or corporation tax) is required to pay the amount specially collected (additionally withheld) on a monthly basis to the local government by the 10<sup>th</sup> of the following month.

**e. Determination and Adjustment**

In case of non-reporting, the local government concerned determines and imposes the tax amount payable as well as penalties on failure to file returns and insincere tax payment.

In case of underreporting, a local government imposes the tax amount underreported as well as penalties on underreporting and failure of tax payment.

**f. Penalty Tax**

(1) Penalty tax on failure to file returns

- (a) In case of failure to file a return which involves fraud or other illegal activities, the penalty equal to 40% of the unreported tax amount shall be imposed.
- (b) In other cases, the penalty equal to 20% of the unreported tax amount shall be imposed.

(2) Penalty tax on underreporting

- (a) In case of underreporting which involves fraud or other illegal activities, the amount of i) and ii) combined shall be imposed as penalty tax.
  - i) The penalty equivalent to 40% of the underreported tax amount which involves fraud or other illegal activities
  - ii) The penalty equivalent to 10% of the underreported tax amount from which unjustly underreported tax amount is subtracted



(b) In other cases, the penalty equal to 10% of the underreported tax amount shall be imposed.

(3) Penalty tax on failure to pay the tax amount due

The following amount shall be imposed as penalty:

The unpaid amount  $\times$  the number of delayed days  $\times$  25/100,000

(4) Penalty tax on failure of special collection

The combination of i) and ii) shall be imposed as penalty.

i) 3% of the unpaid amount or the underpaid amount

ii) The unpaid amount or the underpaid amount  $\times$  the period ranging from the day following the due date for payment to the day of payment by self-assessment or the day of notification  $\times$  25/100,000

(5) In case where there are penalties for non-compliance with any other obligations in respect of income tax or corporate tax, an amount equivalent to 10% of the penalty imposed in addition to the income tax or corporate tax shall be imposed as penalty.

**g. Exemptions**

(1) Non-taxation

Where income tax or corporate tax is exempt, local income tax is also exempt.

(2) Exemption and reduction:

Various rules as to exemption and reduction for local income tax are in place only for Individual taxpayers and thus there is a need to separately check the rules as to exemption and reduction under the special local tax treatment control law.

## **11. Local Consumption Tax**

### **a. Taxpayer**

Taxpayers of VAT

### **b. Tax Base**

Tax revenue of VAT

### **c. Tax Rates**

21% of VAT revenue

<Appendix>Summary of Income Taxation for Non-residents

Individual Income Tax

Individual Income Taxation

|                            | Resident   | Non-Resident   |
|----------------------------|--|--|
| <b>Definition</b>          | Residence or domicile in Korea for more than one year      | Any person not deemed a resident                           |
| <b>Taxable Place</b>       | Residence or domicile                                      | Place of business (fixed base) or place of income source   |
| <b>Tax Liability</b>       | Worldwide income   | Income from sources within Korea                           |
| <b>Methods of Taxation</b> | Global Taxation  | Global taxation (in case of fixed base)                    |
|                            | Schedular taxation for capital gains and retirement income | Schedular taxation for capital gains and retirement income |
|                            | Withholding taxation                                       | Withholding taxation                                       |

Taxation on Non-Residents with a Fixed Base

(Unit: 1,000 won)

| Taxable Income<br>(Tax Base) |               | Tax Rates and Brackets                         |
|------------------------------|---------------|--|
| Over                         | Not more than |  |
|                              | 12,000        | 6%   |
| 12,000                       | 46,000        | <u>720</u> + 15% of the excess over 12,000     |
| 46,000                       | 88,000        | <u>5,820</u> + 24% of the excess over 46,000   |
| 88,000                       | 150,000       | <u>15,900</u> + 35% of the excess over 88,000  |
| 150,000                      |               | <u>37,600</u> + 38% of the excess over 150,000 |

### Taxation on Non-Residents without a Fixed Base

| Items of Income                            | Current Domestic Rates   |
|--|--|
| Interest                                   | 20%<br>(14% applicable to interest derived from bonds issued by the State, local authorities and domestic companies) |
| Dividends                                  | 20%  |
| Real Estate Income                         | *  |
| Lease Income                               | 2%   |
| Business Income                            | 2%   |
| Independent Personal Services              | 20%  |
| Dependent Personal Services                | *  |
| Retirement Income                          | *  |
| Capital Gains Income                       | Lesser of 10% of sales or 20% of the gains   |
| Royalties                                  | 20%  |
| Capital Gains from Securities Transactions | Lesser of 10% of sales or 20% of the gains   |
| Miscellaneous Income                       | 20%  |

\* Tax rates applied to non-residents without a fixed base are identical to those applied to non-residents with a fixed base.

## Corporate Income Tax

### Corporate Income Taxation

|                     | Domestic Corporation   | Foreign Corporation   |
|---------------------|--|---|
| Definition          | A corporate business entity with its head or main office in Korea; or<br>A corporate business entity with its place of effective management in Korea | A corporate business entity with its head or main office or place of effective management outside Korea   |
| Taxable Place       | Head/ main office or place of effective management   | Permanent establishment or place of income source   |
| Tax Liability       | Worldwide income   | Income from sources within Korea  |
| Methods of Taxation | Global taxation<br>Special additional tax  | Global taxation (in case of permanent establishment)<br>Special additional tax<br>Withholding tax (in case of no permanent establishment)<br>Schedular taxation (capital gains) |

### Taxation on Foreign Corporations with Permanent Establishment

| Taxable Income (Tax Base) |                 | Tax Rates and Tax Brackets                               |
|---------------------------|-----------------|--|
| Over                      | Not more than   |  |
|                           | 200 million won | 10%  |
| 200 million won           | 20 billion won  | 20 million won + 20% of the excess over 200 million won  |
| 20 billion won            |                 | 3.98 billion won + 22% of the excess over 20 billion won |

### Taxation on Foreign Corporations without Permanent Establishments

| Items of Income                           | Current Domestic Rates   |
|---|--|
| Interest                                  | 20%<br>(14% applicable to interest derived from bonds issued by the State, local authorities and domestic companies) |
| Dividends                                 | 20%  |
| Real Estate Income                        | *  |
| Lease Income                              | 2%   |
| Business Income                           | 2%   |
| Independent Personal Services             | 20%  |
| Capital Gains Income                      | Lesser of 10% of sales or 20% of the gains   |
| Royalties                                 | 20%  |
| Capital Gains from Securities Transaction | Lesser of 10% of sales or 20% of the gains   |
| Miscellaneous Income                      | 20%  |

\* Tax rates applied to non-resident corporations without a permanent establishment are identical to those applied to non-resident corporations with a permanent establishment.

**List of Countries with which Korea Has Tax Treaties in Force**

| <b>Country</b>           | <b>Date of Signature</b> |     |      | <b>Date of Entry into Force</b> |     |      |
|--------------------------|--------------------------|-----|------|---------------------------------|-----|------|
| <b>Albania</b>           | May.                     | 17, | 2006 | Jan.                            | 13, | 2007 |
| <b>Algeria</b>           | Nov.                     | 24, | 2001 | Aug.                            | 31, | 2006 |
| <b>Australia</b>         | Jul.                     | 12, | 1982 | Jan.                            | 1,  | 1984 |
| <b>Austria (revised)</b> | May.                     | 28, | 2001 | Mar.                            | 30, | 2002 |
| <b>Azerbaijan</b>        | May.                     | 19, | 2008 | Nov.                            | 25, | 2008 |
| <b>Bahrain</b>           | May.                     | 1,  | 2012 | Apr.                            | 26, | 2013 |
| <b>Bangladesh</b>        | May.                     | 10, | 1983 | Aug.                            | 22, | 1984 |
| <b>Belarus</b>           | May.                     | 20, | 2002 | Jun.                            | 17, | 2003 |
| <b>Belgium (revised)</b> | Mar.                     | 8,  | 2010 | Dec.                            | 1,  | 2015 |
| <b>Brazil(revised)</b>   | Apr.                     | 24, | 2015 | Jan.                            | 10, | 2018 |
| <b>Brunei</b>            | Dec.                     | 9,  | 2014 | Oct.                            | 14, | 2016 |
| <b>Bulgaria</b>          | Mar.                     | 11, | 1994 | Jun.                            | 22, | 1995 |
| <b>Canada (revised)</b>  | Sep.                     | 5,  | 2006 | Dec.                            | 18, | 2006 |
| <b>Chile</b>             | Apr.                     | 18, | 2002 | Jul.                            | 25, | 2003 |
| <b>China(revised)</b>    | Mar.                     | 23, | 2006 | Jul.                            | 4,  | 2006 |
| <b>Colombia</b>          | Jul.                     | 27, | 2010 | Jul.                            | 3,  | 2014 |
| <b>Croatia</b>           | Nov.                     | 13, | 2002 | Sep.                            | 15, | 2006 |
| <b>Czech Republic</b>    | Apr.                     | 27, | 1992 | Mar.                            | 3,  | 1995 |
| <b>Denmark</b>           | Nov.                     | 11, | 1977 | Jan.                            | 7,  | 1979 |
| <b>Egypt</b>             | Dec.                     | 9,  | 1992 | Feb.                            | 5,  | 1994 |
| <b>Estonia</b>           | Sep.                     | 23, | 2009 | May.                            | 25, | 2010 |
| <b>Ecuador</b>           | Oct.                     | 8,  | 2012 | Oct.                            | 16, | 2013 |
| <b>Ethiopia</b>          | May.                     | 26, | 2016 | Oct.                            | 31, | 2017 |
| <b>Fiji</b>              | Sep.                     | 19, | 1994 | Feb.                            | 17, | 1995 |
| <b>Finland</b>           | Feb.                     | 8,  | 1979 | Dec.                            | 23, | 1981 |
| <b>France (revised)</b>  | Apr.                     | 9,  | 1991 | Mar.                            | 1,  | 1992 |
| <b>Germany (revised)</b> | Mar.                     | 10, | 2000 | Oct.                            | 31, | 2002 |

| <b>Country</b>             | <b>Date of Signature</b> |     |      | <b>Date of Entry into Force</b> |     |      |
|----------------------------|--------------------------|-----|------|---------------------------------|-----|------|
| <b>Georgia</b>             | Mar.                     | 31, | 2016 | Nov.                            | 17, | 2016 |
| <b>Greece</b>              | Mar.                     | 20, | 1995 | Jul.                            | 10, | 1998 |
| <b>Gabon</b>               | Oct.                     | 25, | 2010 | Dec.                            | 2,  | 2015 |
| <b>Hong Kong</b>           | Jul.                     | 8,  | 2014 | Sep.                            | 27, | 2016 |
| <b>Hungary</b>             | Mar.                     | 29, | 1989 | Apr.                            | 1,  | 1990 |
| <b>Iceland</b>             | May                      | 15, | 2008 | Oct.                            | 23, | 2008 |
| <b>India(revised)</b>      | Jul.                     | 19, | 1985 | Sep.                            | 12, | 2016 |
| <b>Indonesia</b>           | Nov.                     | 10, | 1988 | May                             | 3,  | 1989 |
| <b>Iran</b>                | Jul.                     | 6,  | 2006 | Dec.                            | 8,  | 2009 |
| <b>Ireland</b>             | Jul.                     | 18, | 1990 | Dec.                            | 27, | 1991 |
| <b>Israel</b>              | Mar.                     | 18, | 1997 | Dec.                            | 13, | 1997 |
| <b>Italy (revised)</b>     | Apr.                     | 3,  | 2012 | Jan.                            | 23, | 2015 |
| <b>Japan (revised)</b>     | Oct.                     | 8,  | 1998 | Nov.                            | 22, | 1999 |
| <b>Jordan</b>              | Jul.                     | 24, | 2004 | Mar.                            | 28, | 2005 |
| <b>Kazakhstan</b>          | Oct.                     | 18, | 1997 | Apr.                            | 9,  | 1999 |
| <b>Kenya</b>               | Jul.                     | 8,  | 2014 | Apr.                            | 3,  | 2017 |
| <b>Kuwait (revised)</b>    | Oct.                     | 2,  | 2007 | Dec.                            | 27, | 2010 |
| <b>Kyrgyzstan</b>          | Dec.                     | 11  | 2012 | Nov.                            | 22  | 2013 |
| <b>Laos</b>                | Nov.                     | 29, | 2004 | Feb.                            | 9,  | 2006 |
| <b>Latvia</b>              | Jun.                     | 15, | 2008 | Dec.                            | 26, | 2009 |
| <b>Lithuania</b>           | Apr.                     | 20, | 2006 | Jul.                            | 14, | 2007 |
| <b>Luxembourg(revised)</b> | May                      | 29, | 2012 | Sept.                           | 4,  | 2013 |
| <b>Malaysia</b>            | Apr.                     | 20, | 1982 | Jan.                            | 2,  | 1983 |
| <b>Malta</b>               | Mar.                     | 25, | 1997 | Mar.                            | 21, | 1998 |
| <b>Mexico</b>              | Oct.                     | 6,  | 1994 | Feb.                            | 11, | 1995 |
| <b>Mongolia</b>            | Apr.                     | 17, | 1992 | Jun.                            | 6,  | 1993 |
| <b>Morocco</b>             | Jan.                     | 27, | 1999 | Jun.                            | 16, | 2000 |



| <b>Country</b>               | <b>Date of Signature</b> | <b>Date of Entry into Force</b> |
|------------------------------|--------------------------|---------------------------------|
| <b>Myanmar</b>               | Feb. 22, 2002            | Aug. 4, 2003                    |
| <b>Nepal</b>                 | Oct. 5, 2001             | May 29, 2003                    |
| <b>Netherlands (revised)</b> | Nov. 6, 1998             | Apr. 2, 1999                    |
| <b>New Zealand (revised)</b> | Jul. 14, 1997            | Oct. 10, 1997                   |
| <b>Norway</b>                | Oct. 5, 1982             | Mar. 1, 1984                    |
| <b>Oman</b>                  | Sep. 23, 2005            | Feb. 13, 2006                   |
| <b>Pakistan</b>              | Apr. 13, 1987            | Oct. 20, 1987                   |
| <b>Panama</b>                | Oct. 20, 2010            | Apr. 1, 2012                    |
| <b>Papua New Guinea</b>      | Nov. 23, 1996            | Apr. 21, 1998                   |
| <b>Peru</b>                  | May 10, 2012             | Mar. 3, 2014                    |
| <b>Philippines</b>           | Feb. 21, 1984            | Nov. 9, 1986                    |
| <b>Poland (revised)</b>      | Oct. 22, 2013            | Oct. 15, 2016                   |
| <b>Portugal</b>              | Jan. 26, 1996            | Dec. 21, 1997                   |
| <b>Qatar</b>                 | Mar. 27, 2007            | Apr. 15, 2009                   |
| <b>Romania</b>               | Oct. 11, 1993            | Oct. 6, 1994                    |
| <b>Russia</b>                | Nov. 19, 1992            | Aug. 24, 1995                   |
| <b>Saudi Arabia</b>          | Mar. 24, 2007            | Dec. 1, 2008                    |
| <b>Serbia</b>                | Jan. 22, 2016            | Nov. 17, 2016                   |
| <b>Singapore(revised)</b>    | May. 24, 2010            | Jun. 28, 2013                   |
| <b>Slovakia</b>              | Aug. 27, 2001            | Jul. 26, 2003                   |
| <b>Slovenia</b>              | Apr. 25, 2005            | Mar. 2, 2006                    |
| <b>South Africa</b>          | Jul. 7, 1995             | Jan. 7, 1996                    |
| <b>Spain</b>                 | Jan. 17, 1994            | Nov. 21, 1994                   |
| <b>Sri Lanka</b>             | May 28, 1984             | Jun. 20, 1986                   |
| <b>Sweden</b>                | May. 27, 1981            | Sep. 9, 1982                    |
| <b>Switzerland(revised)</b>  | Dec. 28, 2010            | Jul. 25, 2012                   |
| <b>Tadzhikistan</b>          | Jul. 31, 2013            | Sep. 28, 2016                   |

| <b>Country</b>                  | <b>Date of Signature</b> |     |      | <b>Date of Entry into Force</b> |     |      |
|---------------------------------|--------------------------|-----|------|---------------------------------|-----|------|
| <b>Thailand (revised)</b>       | Nov.                     | 16, | 2006 | Jun.                            | 29, | 2007 |
| <b>Tunisia</b>                  | Sep.                     | 27, | 1988 | Nov.                            | 25, | 1989 |
| <b>Turkey</b>                   | Dec.                     | 24, | 1983 | Mar.                            | 27, | 1986 |
| <b>Turkmenistan</b>             | Apr.                     | 13, | 2016 | Nov.                            | 26, | 2016 |
| <b>U.A.E</b>                    | Sep.                     | 23, | 2003 | Mar.                            | 9,  | 2005 |
| <b>Ukraine</b>                  | Sep.                     | 29, | 1999 | Mar.                            | 19, | 2002 |
| <b>United Kingdom (revised)</b> | Oct.                     | 25, | 1996 | Dec.                            | 29, | 1996 |
| <b>United States</b>            | Jun.                     | 4,  | 1976 | Oct.                            | 20, | 1979 |
| <b>Uruguay</b>                  | Nov.                     | 29, | 2011 | Jan.                            | 22, | 2013 |
| <b>Uzbekistan</b>               | Feb.                     | 11, | 1998 | Dec.                            | 25, | 1998 |
| <b>Venezuela</b>                | Jun.                     | 26, | 2006 | Jan.                            | 15, | 2007 |
| <b>Vietnam</b>                  | May                      | 20, | 1994 | Sep.                            | 9,  | 1994 |

### **Withholding Tax Rates in Korea**

The normal withholding tax rates on the Korean-source income of non-residents are as follows:

| <b>Korean-Source Income</b>                              | <b>Withholding Tax Rates</b>   |
|--|--|
| Gross Revenue from Business                              | 2%   |
| Compensation for Personal Services                       | 20%  |
| Gain Developed from Securities Transactions              | 10% of sales price or 20% of the difference between sales price and seller's original cost, whichever is less        |
| Dividends, Interest, Royalties, and Miscellaneous Income | 20%<br>(14% applicable to interest derived from bonds issued by the State, local authorities and domestic companies) |

In addition to the withholding tax rates given above, local income tax of 10% is assessed on these withholding taxes.

There are various limitations on these withholding taxes for residents of countries having a tax treaty in force with Korea. For dividends, interest, and royalties, the withholding tax rates are limited as follows:

| Country               | Withholding Rates in Outward Remittances |              |               |
|-----------------------|--|--------------|---------------|
|                       | Dividends (%)                            | Interest (%) | Royalties (%) |
| <b>Albania</b>        | 5, 10                                    | 10           | 10            |
| <b>Algeria</b>        | 5, 15                                    | 10           | 2, 10         |
| <b>Australia</b>      | 15                                       | 15           | 15            |
| <b>Austria</b>        | 5, 15                                    | 10           | 2, 10         |
| <b>Azerbaijan</b>     | 7  | 10           | 5,10          |
| <b>Bahrain</b>        | 5, 10                                    | 5            | 10            |
| <b>Bangladesh</b>     | 10, 15                                   | 10           | 10            |
| <b>Belarus</b>        | 5, 15                                    | 10           | 5             |
| <b>Belgium</b>        | 15                                       | 10           | 10            |
| <b>Brazil</b>         | 15                                       | 10, 15       | 15, 25        |
| <b>Brunei</b>         | 5, 10                                    | 10           | 10            |
| <b>Bulgaria</b>       | 5, 10                                    | 10           | 5             |
| <b>Canada</b>         | 5, 15                                    | 10           | 10            |
| <b>Chile</b>          | 5, 10                                    | 10, 15       | 5, 15         |
| <b>China</b>          | 5,10                                     | 10           | 10            |
| <b>Colombia</b>       | 5, 10                                    | 10           | 10            |
| <b>Croatia</b>        | 5, 10                                    | 5            | 0             |
| <b>Czech Republic</b> | 5, 10                                    | 10           | 0, 10         |
| <b>Denmark</b>        | 15                                       | 15           | 10, 15        |
| <b>Egypt</b>          | 10, 15                                   | 10, 15       | 15            |
| <b>Estonia</b>        | 5,10                                     | 10           | 5,10          |
| <b>Ecuador</b>        | 5, 10                                    | 12           | 5, 12         |
| <b>Ethiopia</b>       | 5, 8                                     | 7.5          | 5             |
| <b>Fiji</b>           | 10, 15                                   | 10           | 10            |

| Country    | Withholding Rates in Outward Remittances |              |               |
|------------|--|--------------|---------------|
|            | Dividends (%)                            | Interest (%) | Royalties (%) |
| Finland    | 10, 15                                   | 10           | 10            |
| France     | 10, 15                                   | 10           | 10            |
| Germany    | 5, 15                                    | 10           | 2, 10         |
| Georgia    | 5, 10                                    | 10           | 10            |
| Greece     | 5, 15                                    | 8            | 10            |
| Gabon      | 5, 15                                    | 10           | 10            |
| Hong Kong  | 10, 15                                   | 10           | 10            |
| Hungary    | 5, 10                                    | 0            | 0             |
| Iceland    | 5, 15                                    | 10           | 10            |
| India      | 15, 20                                   | 15           | 15            |
| Indonesia  | 10, 15                                   | 10           | 15            |
| Iran       | 10                                       | 10           | 10            |
| Ireland    | 10, 15                                   | 0            | 0             |
| Israel     | 5, 15                                    | 7.5, 10      | 2, 5          |
| Italy      | 10, 15                                   | 10           | 10            |
| Japan      | 5, 15                                    | 10           | 10            |
| Jordan     | 10                                       | 10           | 10            |
| Kazakhstan | 5, 15                                    | 10           | 10            |
| Kenya      | 8, 10                                    | 12           | 10            |
| Kuwait     | 10                                       | 10           | 15            |
| Kyrgyzstan | 5, 10                                    | 10           | 5, 10         |
| Laos       | 5, 10                                    | 10           | 5             |
| Latvia     | 5, 10                                    | 10           | 5, 10         |
| Lithuania  | 5, 10                                    | 10           | 5, 10         |
| Luxembourg | 10, 15                                   | 10           | 10, 15        |
| Malaysia   | 10, 15                                   | 15           | 10, 15        |

| Country          | Withholding Rates in Outward Remittances |              |               |
|------------------|--|--------------|---------------|
|                  | Dividends (%)                            | Interest (%) | Royalties (%) |
| Malta            | 5, 15                                    | 10           | 0             |
| Mexico           | 0, 15                                    | 5, 15        | 10            |
| Mongolia         | 5  | 5            | 10            |
| Morocco          | 5, 10                                    | 10           | 5, 10         |
| Myanmar          | 10                                       | 10           | 10, 15        |
| Nepal            | 5,15                                     | 10           | 15            |
| Netherlands      | 10, 15                                   | 10, 15       | 10, 15        |
| New Zealand      | 15                                       | 10           | 10            |
| Norway           | 15                                       | 15           | 10, 15        |
| Oman             | 5, 10                                    | 5            | 8             |
| Pakistan         | 10, 12.5                                 | 12.5         | 10            |
| Panama           | 5, 15                                    | 5            | 3, 10         |
| Papua New Guinea | 15                                       | 10           | 10            |
| Peru             | 10                                       | 15           | 10, 15        |
| Philippines      | 10, 25                                   | 10, 15       | 10, 15        |
| Poland           | 5, 10                                    | 10           | 10            |
| Portugal         | 10, 15                                   | 15           | 10            |
| Qatar            | 10                                       | 10           | 5             |
| Romania          | 7, 10                                    | 10           | 7, 10         |
| Russia           | 5, 10                                    | 0            | 5             |
| Saudi Arabia     | 5,10                                     | 5            | 5,10          |
| Serbia           | 5, 10                                    | 10           | 5, 10         |
| Singapore        | 10, 15                                   | 10           | 15            |
| Slovakia         | 5, 10                                    | 10           | 10            |
| Slovenia         | 5, 15                                    | 5            | 5             |
| South Africa     | 5, 15                                    | 10           | 10            |

| Country        | Withholding Rates in Outward Remittances |              |               |
|----------------|--|--------------|---------------|
|                | Dividends (%)                            | Interest (%) | Royalties (%) |
| Spain          | 10, 15                                   | 10           | 10            |
| Sri Lanka      | 10, 15                                   | 10           | 10            |
| Sweden         | 10, 15                                   | 10, 15       | 10, 15        |
| Switzerland    | 10, 15                                   | 10           | 10            |
| Tadzhikistan   | 5, 10                                    | 8            | 10            |
| Thailand       | 10                                       | 10,15        | 5,10,15       |
| Tunisia        | 15                                       | 12           | 15            |
| Turkey         | 15, 20                                   | 10, 15       | 10            |
| Turkmenistan   | 10                                       | 10           | 10            |
| Ukraine        | 5, 15                                    | 5            | 5             |
| U.A.E.         | 5, 10                                    | 10           | 0             |
| United Kingdom | 5, 15                                    | 10           | 2, 10         |
| United States  | 10, 15                                   | 12           | 10, 15        |
| Uruguay        | 5, 15                                    | 10           | 10            |
| Uzbekistan     | 5, 15                                    | 5            | 2,5           |
| Venezuela      | 5, 10                                    | 5, 10        | 5, 10         |
| Vietnam        | 10                                       | 10           | 5, 15         |

*This book is published to present a brief overview of the Korean Tax Law. If any discrepancies are found between its contents and the current Korean Tax Code, the latter shall prevail. If you have any questions about the contents of this book, please contact Tax Treaties Team of the Ministry of Economy and Finance of Korea by phone at +82-44-215-4440/4447, by fax at +82-44-215-8061, or via email at:*

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